

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

UNITED STATES OF AMERICA
Plaintiff,

v.

EXXONMOBIL CORPORATION,
et. al.
Defendants.

CIVIL ACTION NO. 1:07-cv-00060-PB

STATE OF NEW HAMPSHIRE,
Plaintiff,

v.

EXXONMOBIL CORPORATION,
et. al.
Defendants.

CIVIL ACTION NO. 1:07-cv-00080-PB

BEEDE WASTE OIL SUPERFUND SITE RD/RA CONSENT DECREE

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I. BACKGROUND

A. The United States of America ("United States"), on behalf of the Administrator of the United States Environmental Protection Agency ("EPA"), filed a complaint in this matter pursuant to Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. §§ 9606, 9607.

B. The United States in its complaint seeks, inter alia: (1) reimbursement of costs incurred by EPA and the Department of Justice for response actions at the Beede Waste Oil Superfund Site in Plaistow, New Hampshire, together with accrued interest; and (2) performance of studies and response work by the defendants at the Site consistent with the National Contingency Plan, 40 C.F.R. Part 300 (as amended) ("NCP").

C. In accordance with the NCP and Section 121(f)(1)(F) of CERCLA, 42 U.S.C. § 9621(f)(1)(F), EPA notified the State of New Hampshire (the "State") on May 16, 2005, of negotiations with potentially responsible parties regarding the implementation of the remedial design and remedial action for the Site, and EPA has provided the State with an opportunity to participate in such negotiations and be a party to this Consent Decree.

D. The State of New Hampshire (the "State") has also filed a complaint against the defendants in this Court alleging that the defendants and the Settling Federal Agencies are liable to the State under Section 107 of CERCLA, 42 U.S.C. § 9607, and under New Hampshire Revised Statutes Annotated 147-A:9 and 147-B:10, alleging that potentially responsible parties

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(“PRPs”) are responsible for (1) reimbursement of all costs incurred by the State for response actions at the Beede Waste Oil Superfund Site in Plaistow, New Hampshire, together with accrued interest; and (2) performance of studies and response work by the defendants at the Site consistent with the NCP.

E. In accordance with Section 122(j)(1) of CERCLA, 42 U.S.C. § 9622(j)(1), EPA notified the United States Department of Interior, and the United States National Oceanic and Atmospheric Administration, and the New Hampshire Department of Environmental Services by letter dated May 16, 2005, of negotiations with potentially responsible parties regarding the release of hazardous substances that may have resulted in injury to the natural resources under State and Federal trusteeship and encouraged the trustees to participate in the negotiation of this Consent Decree.

F. The defendants that have entered into this Consent Decree (“Settling Defendants”) do not admit any liability to the Plaintiffs arising out of the transactions or occurrences alleged in the complaints, nor do they acknowledge that the release or threatened release of hazardous substance(s) at or from the Site constitutes an imminent or substantial endangerment to the public health or welfare or the environment. The Settling Federal Agencies do not admit any potential liability arising out of the transactions or occurrences alleged in any counterclaim asserted by the Settling Defendants or any claim by the State.

G. Pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, EPA placed the Site on the National Priorities List, set forth at 40 C.F.R. Part 300, Appendix B, by publication in the Federal Register on December 23, 1996, 61 Fed. Reg. 247.

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H. In response to a release or a substantial threat of a release of hazardous substances at or from the Site, EPA has undertaken response actions at or in connection with the Site under Section 104 of CERCLA, 42 U.S.C. § 9604, including a Time Critical Removal Action initiated in July, 1996, and Non-Time Critical Removal Action initiated in February, 2000.

I. In response to a release or a substantial threat of a release of a hazardous substances at or from the Site, the State, under a cooperative agreement with EPA, commenced a Remedial Investigation and Feasibility Study ("RI/FS") for the Site on September 27, 1996, pursuant to 40 C.F.R. § 300.430.

J. The State, under a cooperative agreement with EPA, completed a Remedial Investigation ("RI") Report on February 26, 2001, and completed a Feasibility Study ("FS") Report on January 4, 2002.

K. Pursuant to Section 117 of CERCLA, 42 U.S.C. § 9617, EPA published notice of the completion of the FS and of the proposed plan for remedial action on June 17, 2002, in major local newspapers of general circulation. EPA provided an opportunity for written and oral comments from the public on the proposed plan for remedial action. A copy of the transcript of the public meeting is available to the public as part of the administrative record upon which the Regional Administrator based the selection of the response action.

L. The decision by EPA on the remedial action to be implemented at the Site is embodied in a final Record of Decision ("ROD"), executed on January 9, 2004, on which the State has given its concurrence. The ROD includes a responsiveness summary to the public

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comments. Notice of the final plan was published in accordance with Section 117(b) of CERCLA.

M. To date, EPA and/or the State have entered into four separate final administrative cashout settlements with eligible de minimis parties under the authority of Section 122(g) of CERCLA. These settlements, memorialized in four individual administrative orders on consent, are: 1) the Early De Minimis Settlement of 2001, U.S. EPA Docket No. CERCLA 01-2000-0041; 2) the Second De Minimis Settlement of 2002, U.S. EPA Docket No. CERCLA 01-2002-0025; 3) the Third De Minimis Settlement of 2003, U.S. EPA Docket No. CERCLA 01-2003-0038; and 4) the Fourth De Minimis Settlement of 2004, U.S. EPA Docket No. CERCLA 01-2004-0012. Each settling de minimis party participating in one of the four administrative settlements referenced above certified that it contributed no more than a total of the following gallons of materials containing hazardous substances to the Site: between 276 and 1,000 gallons for the first settlement; between 276 and 5,000 gallons for the second and third settlements; and between 276 and 20,000 for the fourth settlement. In addition, each settling party certified that such hazardous substances are not significantly more toxic or of significantly greater hazardous effect than other hazardous substances at the Site. The four de minimis settlements allowed the settlors to make a cash payment to EPA, including a premium, to resolve their alleged civil liability under Sections 106, 107 and 113(f)(1) of CERCLA, 42 U.S.C. §§ 9606, 9607 and 9613(f)(1), and for the second, third and fourth de minimis settlements, to make a cash payment to the State to resolve their alleged civil liability pursuant to New Hampshire Revised Statutes Annotated 147-B:10 for injunctive relief with regard to the Site and for response costs incurred

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and to be incurred at or in connection with the Site. These settlements provided for full and complete contribution protection for each settling de minimis party.

N. Based on the information presently available to EPA and the State, EPA and the State believe that the Work will be properly and promptly conducted by the Performing Settling Defendants if conducted in accordance with the requirements of this Consent Decree and its appendices.

O. Solely for the purposes of Section 113(j) of CERCLA, the Remedial Action selected by the ROD and the Work to be performed by the Performing Settling Defendants shall constitute a response action taken or ordered by the President.

P. Information currently known to EPA and the State indicates that the amount of hazardous substances contributed to the Site by the De Minimis Settling Federal Agency, and each De Minimis Settling Defendant is minimal in comparison to other hazardous substances at the Site, and that the toxic or other hazardous effects of the hazardous substances contributed to the Site by the De Minimis Settling Federal Agency, and each De Minimis Settling Defendant do not contribute disproportionately to the cumulative toxic or other hazardous effects of the hazardous substances at the Site. Accordingly, pursuant to 122(g)(1)(A) of CERCLA, 42 U.S.C. § 9622(g)(1)(A), EPA has determined that the amount and the toxic or other hazardous effects of the substances contributed by the De Minimis Settling Federal Agency, and each of the individual De Minimis Settling Defendants is minimal in comparison to other hazardous substances contributed to the Site. EPA has also determined that this settlement involves only a

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minor portion of the Plaintiffs' response costs at the Site with respect to the De Minimis Settling Federal Agency, and each De Minimis Settling Defendant.

Q. In accordance with Section 122(g)(7) of CERCLA, EPA has reviewed the Financial Information submitted by Settling ATP Defendants to determine whether they have an inability, or a limited ability, to pay response costs incurred and to be incurred at the Site, taking into consideration the ability of such parties to pay response costs without causing severe financial hardship such that payment will deprive a party of ordinary and necessary assets or result in an inability to pay for ordinary and necessary business expenses and/or ordinary and necessary living expenses. Based upon this Financial Information, EPA has determined that Settling ATP Defendants qualify for a reduction in settlement amount and/or alternative payment method within the meaning of Section 122(g)(7) of CERCLA, 42 U.S.C. §9622(g)(7), and are able to make payment(s) as specified in Section XXIV (De Minimis Settlement Provisions) and Appendix I (Settling ATP Defendants).

R. The Parties recognize, and the Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith and implementation of this Consent Decree will expedite the cleanup of the Site and will avoid prolonged and complicated litigation between the Parties, and that this Consent Decree is fair, reasonable, and in the public interest.

NOW, THEREFORE, it is hereby Ordered, Adjudged, and Decreed:

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II. JURISDICTION

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1345, and 42 U.S.C. §§ 9606, 9607, 9613(b) and 6973; and pendent jurisdiction over the claims asserted by the State arising under the laws of New Hampshire. This Court also has personal jurisdiction over the United States and the Settling Defendants. Solely for the purposes of this Consent Decree and the underlying complaints, the United States and the Settling Defendants waive all objections and defenses that they may have to jurisdiction of the Court or to venue in this District. The United States and the Settling Defendants shall not challenge the terms of this Consent Decree or this Court's jurisdiction to enter and enforce this Consent Decree.

III. PARTIES BOUND

2. This Consent Decree applies to and is binding upon the United States and the State and upon Settling Defendants and their heirs, successors and assigns. Any change in ownership or corporate status of a Settling Defendant including, but not limited to, any transfer of assets or real or personal property, shall in no way alter such Settling Defendant's responsibilities under this Consent Decree.

3. Performing Settling Defendants shall provide a copy of this Consent Decree to each contractor hired to perform the Work (as defined below) required by this Consent Decree and to each person representing any Performing Settling Defendant with respect to the Site or the Work and shall condition all contracts entered into hereunder upon performance of the Work in

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conformity with the terms of this Consent Decree. Performing Settling Defendants or their contractors shall provide written notice of the Consent Decree to all subcontractors hired to perform any portion of the Work required by this Consent Decree. Performing Settling Defendants shall nonetheless be responsible for ensuring that their contractors and subcontractors perform the Work contemplated herein in accordance with this Consent Decree. With regard to the activities undertaken pursuant to this Consent Decree, each contractor and subcontractor shall be deemed to be in a contractual relationship with the Performing Settling Defendants within the meaning of Section 107(b)(3) of CERCLA, 42 U.S.C. § 9607(b)(3).

IV. DEFINITIONS

4. Unless otherwise expressly provided herein, terms used in this Consent Decree which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Consent Decree or in the appendices attached hereto and incorporated hereunder, the following definitions shall apply:

“Beede Waste Oil Superfund Site Special Account” shall mean the special account established at the Site by EPA pursuant to Section 122(b)(3) of CERCLA, 42 U.S.C. §9622(b)(3), and first established in 2001, for the Beede Waste Oil Early De Minimis Settlement, Administrative Order on Consent, EPA Docket Number 1-2001-0041. This special account contains funds received through the four Beede De Minimis settlements described in Paragraph M of Section I (Background).

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“Beede Waste Oil Superfund Site Disbursement Special Account” shall mean the special account established for the Site pursuant to Section 122(b)(3) of CERCLA, 42 U.S.C. § 9622(b)(3), and this Consent Decree.

“CERCLA” shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601, *et seq.*

“Consent Decree” shall mean this Decree and all appendices attached hereto (listed in Section XXXI). In the event of conflict between this Decree and any appendix, this Decree shall control.

“Day” shall mean a calendar day unless expressly stated to be a working day. “Working day” shall mean a day other than a Saturday, Sunday, or Federal holiday. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or Federal holiday, the period shall run until the close of business of the next working day.

“De Minimis Settlers” or “De Minimis Settling Defendants” shall mean those parties identified in Appendix D and Appendix I (Settling ATP Defendants).

“De Minimis Settling Federal Agency” shall mean the party identified in Appendix G.

“Effective Date” shall be the effective date of this Consent Decree as provided in Paragraph 129.

“EPA” shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

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“Financial Information” shall mean those financial documents identified in Appendix J.

“Institutional Controls” shall mean covenants, conditions, deed restrictions and other requirements and controls developed for one or more of the following purposes: 1) to restrict the use of groundwater at the Site prior to the attainment of Performance Standards; 2) to limit human or animal exposure to Waste Material at the Site; 3) to ensure non-interference with the performance of the Work; 4) to ensure and maintain the integrity and effectiveness of the Work; and 5) any other similar measures to implement the response actions at or pertaining to the Site.

“Interest,” shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.

“Interest Earned” shall mean interest earned on amounts in the Beede Waste Oil Superfund Site Disbursement Special Account, which shall be computed monthly at a rate based on the annual return on investments of the Hazardous Substance Superfund. The applicable rate of interest shall be the rate in effect at the time the interest accrues.

“National Contingency Plan” or “NCP” shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, and any amendments thereto.

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“NHDES” shall mean the New Hampshire Department of Environmental Services and any successor departments or agencies of the State.

“Operation and Maintenance” or “O & M” shall mean all activities required to maintain the effectiveness of the Remedial Action as required under the Operation and Maintenance Plan approved or developed by EPA pursuant to this Consent Decree and the Statement of Work (SOW).

“Owner/Operator Performing Settling Defendant” shall mean Mark O. Henry, individually.

“Owner Settling Defendants” shall mean the Settling Defendants listed in Appendix E.

“Paragraph” shall mean a portion of this Consent Decree identified by an arabic numeral or an upper case letter.

“Parcel 1 of the Site” shall mean the 21.6 acre parcel located at 11 Kelley Road, Plaistow, New Hampshire and currently identified in Town tax records as Tax Map 31, Lot 47.

“Parcel 2 of the site” shall consist of the 19 acre Parcel located at 42 Old County Road, Plaistow, New Hampshire and currently identified in Town tax records as Tax Map 31, Lot 40.

“Parties” shall mean the United States, the State of New Hampshire, and the Settling Defendants.

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“Performance Standards” shall mean the cleanup standards and other measures of achievement of the goals of the Remedial Action, set forth in Section L of the ROD and Section IV of the SOW.

“Performing Settling Defendants” shall mean those Settling Defendants listed in Appendix H and includes the Owner/Operator Performing Settling Defendant.

“Plaintiffs” shall mean the United States and the State of New Hampshire.

“RCRA” shall mean the Solid Waste Disposal Act, as amended, 42 U.S.C. §§ 6901 *et seq.* (also known as the Resource Conservation and Recovery Act).

“Record of Decision” or “ROD” shall mean the EPA Record of Decision relating to the Site signed on January 9, 2004, by the Regional Administrator, EPA Region 1, or his/her delegate and all attachments thereto. The ROD is attached as Appendix A.

“Remedial Action” shall mean those activities, except for Operation and Maintenance, to be undertaken by the Performing Settling Defendants to implement the ROD, in accordance with the SOW and the final Remedial Design and Remedial Action Work Plans and other plans approved by EPA.

“Remedial Action Work Plan” shall mean the document developed pursuant to Paragraph 12 of this Consent Decree and approved by EPA, and any amendments thereto.

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“Remedial Design” shall mean those activities to be undertaken by the Performing Settling Defendants to develop the final plans and specifications for the Remedial Action pursuant to the Remedial Design Work Plan.

“Remedial Design Work Plan” shall mean the document developed pursuant to Paragraph 11 of this Consent Decree and approved by EPA, and any amendments thereto.

“Section” shall mean a portion of this Consent Decree identified by a Roman numeral.

“Settling ATP Defendants” shall mean those De Minimis Settling Defendants identified in Appendix I who have submitted Financial Information demonstrating an inability or a limited ability to pay response costs and, as such, have qualified for a reduced settlement amount and/or an alternative payment method as provided in Section XXIV (De Minimis Settlement Provisions).

“Settling Defendants” shall mean those Parties identified in Appendices H (Performing Settling Defendants), E (Owner Settling Defendants), D (De Minimis Settling Defendants) and I (Settling ATP Defendants), and the Owner/Operator Performing Settling Defendant.

“Settling Federal Agencies” shall mean those departments, agencies, and instrumentalities of the United States identified in Appendix F which are resolving any claims which have been or could be asserted against them with regard to this Site as provided in this Consent Decree.

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“Site” shall mean the Beede Waste Oil Superfund Site, encompassing two parcels totaling approximately 40 acres, located at 11 Kelley Road and 42 Old County Road, Plaistow, Rockingham County, New Hampshire and depicted generally on the map attached as Appendix C.

“State” shall mean the State of New Hampshire.

“State Future Response Costs” shall mean all costs, including, but not limited to, direct and indirect costs, that the State incurs pursuant to this Consent Decree other than those costs specifically included in the definition of State Oversight Costs. State Future Response Costs shall include but not be limited to costs incurred to enforce this Consent Decree (including Dispute Resolution); community relations; enforcement support costs; records management costs; costs associated with the State’s review of predesign workplans required pursuant to Section IV.A of the SOW; the costs incurred pursuant to Sections VII (Remedy Review), IX (Access and Institutional Controls) (including, but not limited to, the cost of attorney time and any monies paid to secure access and/or to secure or implement institutional controls including, but not limited to, the amount of just compensation), XV (Emergency Response), and Paragraph 100 (Work Takeover) of Section XXII (Covenants by Plaintiffs). State Future Response Costs shall also include all State Interim Response Costs, and all Interest on those State Past Response Costs Settling Defendants have agreed to reimburse under this Consent Decree that has accrued pursuant to 42 U.S.C. § 9607(a) beginning on July 1, 2006.

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“State Interim Response Costs” shall mean all costs, including direct and indirect costs (a) paid by the State in connection with the Site between June 30, 2006 and the Effective Date, or (b) incurred prior to the Effective Date but paid after that date.

“State Oversight Costs” shall mean all costs, including but not limited to direct and indirect costs, that the State incurs after the selection and notification of a Supervising Contractor by the Performing Settling Defendants in conducting the following activities: reviewing, discussing, commenting on and meetings related to plans, proposals, studies, reports or other items related to the Work; verifying the Work; and overseeing Performing Settling Defendants’ implementation of the Work and compliance with the Consent Decree relating to the Work. State Oversight Costs shall include, but not be limited to, payroll costs, costs incurred by the State under or in connection with a contract or arrangement for technical assistance in overseeing and reviewing the conduct of activities required under the Consent Decree, travel costs, laboratory costs, technical support costs, interagency and intergovernmental agreement costs (including ATSDR and U.S. Army Corps of Engineers costs), data management costs, and modeling costs, insofar as such costs are incurred for activities in the first sentence of this definition. State Oversight Costs shall not include State Future Response Costs.

“State Past Response Costs” shall mean all costs, including, but not limited to, direct and indirect costs, that the State paid at or in connection with the Site through June 30, 2006.

“Statement of Work” or “SOW” shall mean the statement of work for implementation of the Remedial Design, Remedial Action, and Operation and Maintenance at the Site, as set forth

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in Appendix B to this Consent Decree and any modifications made in accordance with this Consent Decree.

“Supervising Contractor” shall mean the principal contractor retained by the Performing Settling Defendants to supervise and direct the implementation of the Work under this Consent Decree.

“United States” shall mean the United States of America, including all of its departments, agencies, and instrumentalities, which includes without limitation EPA, the De Minimis Settling Federal Agency and the Settling Federal Agencies and any federal natural resources trustee.

“U.S. Future Response Costs” shall mean all costs, including but not limited to direct and indirect costs, that EPA and the United States Department of Justice (“DOJ”) incur pursuant to the provisions of this Consent Decree other than those costs specifically included in the definition of U.S. Oversight Costs. U.S. Future Response Costs shall include but not be limited to costs incurred to enforce the Consent Decree (including dispute resolution); the costs incurred pursuant to Sections VII (Remedy Review), IX (Access and Institutional Controls)(including the cost of attorney time and monies paid to secure access and/or to secure or implement institutional controls, including the amount of just compensation), XV (Emergency Response), and Paragraph 100 (Work Takeover) of Section XXII (Covenants by Plaintiffs); community relations costs; costs associated with activities related to the ongoing non-time critical removal action for the Site; costs associated with EPA’s review of predesign workplans required pursuant to Section IV.A. of the SOW; enforcement support costs; records management costs; ATSDR

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costs other than those specifically included as U.S. Oversight Costs; and accrued interest. U.S. Future Response Costs shall include all U.S. Interim Response Costs.

“U.S. Interim Response Costs” shall mean all costs, including direct and indirect costs, (a) paid by the United States in connection with the Site between September 30, 2006 and the Effective Date, or (b) incurred prior to the Effective Date but paid after that date.

“U.S. Oversight Costs” shall mean all costs, including but not limited to direct and indirect costs, that EPA incurs after the selection and notification of a Supervising Contractor by the Performing Settling Defendants in conducting the following activities: reviewing, discussing, commenting on and meetings related to plans, proposals, studies, reports or other items related to the Work; verifying the Work; and overseeing Performing Settling Defendants’ implementation of the Work and compliance with the Consent Decree relating to the Work. U.S. Oversight Costs shall include, but not be limited to, payroll costs, costs incurred by EPA under or in connection with a contract or arrangement for technical assistance in overseeing and reviewing the conduct of activities required under the Consent Decree, travel costs, laboratory costs, technical support costs, interagency and intergovernmental agreement costs (including ATSDR and U.S. Army Corps of Engineers costs), costs under a cooperative agreement, data management costs, and modeling costs, insofar as such costs are incurred for activities in the first sentence of this definition. U.S. Oversight Costs shall not include U.S. Future Response Costs.

“U.S. Past Response Costs” shall mean all costs, including, but not limited to, direct and indirect costs, that the United States paid at or in connection with the Site through September 30,

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2006, plus Interest on all such costs which has accrued pursuant to 42 U.S.C. § 9607(a) through such date.

“Waste Material” shall mean (1) any “hazardous substance” under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (2) any pollutant or contaminant under Section 101(33), 42 U.S.C. § 9601(33); (3) any “solid waste” under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27); (4) any “hazardous waste” or “hazardous materials” under New Hampshire Revised Statutes Annotated 147-B:2, VII or VIII; and (5) any “hazardous waste” under New Hampshire Revised Statutes Annotated 147-A:2, VII.

“Work” shall mean all activities Performing Settling Defendants are required to perform under this Consent Decree, except those required by Section XXVII (Retention of Records).

V. GENERAL PROVISIONS

5. Objectives of the Parties. The objectives of the Parties in entering into this Consent Decree are to protect public health or welfare or the environment at the Site by the design and implementation of response actions at the Site by the Performing Settling Defendants, to reimburse response costs of the Plaintiffs, and to resolve the claims of Plaintiffs against Settling Defendants and the claims of the State and Settling Defendants which have been or could have been asserted against the United States with regard to this Site as provided in this Consent Decree. The objectives of the Parties in entering into this Consent Decree are also to reach an expedited settlement with Settling ATP Defendants for their share of response costs incurred or to be incurred at or in connection with the Site, reduced in consideration of their

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demonstration of an inability or limited ability to pay response costs and to provide all De Minimis Settling Defendants and the De Minimis Settling Federal Agency with contribution protection with regard to the Site pursuant to Sections 113(f)(2) and 122(g)(5) of CERCLA, 42 U.S.C. § § 9613(f)(2) and 9622(g)(5).

6. Commitments by Settling Defendants and Settling Federal Agencies.

a. Performing Settling Defendants shall finance and perform the Work in accordance with this Consent Decree, the ROD, the SOW, and all work plans and other plans, standards, specifications, and schedules set forth herein or developed by Performing Settling Defendants and approved by EPA pursuant to this Consent Decree. Performing Settling Defendants shall also reimburse the United States for U.S. Past Response Costs and the State for State Past Response Costs, and the United States for U.S. Oversight Costs and U.S. Future Response Costs, and the State for State Future Response Costs and State Oversight Costs as provided in this Consent Decree. The Settling Federal Agencies shall reimburse the EPA Hazardous Substance Superfund for U.S. Past Response Costs, U.S. Oversight Costs and U.S. Future Response Costs, the State for State Past Response Costs, State Oversight Costs and State Future Response Costs, and the Settling Defendants for their response costs, as provided in this Consent Decree.

b. The obligations of Performing Settling Defendants to finance and perform the Work and to pay amounts owed the United States and the State under this Consent Decree are joint and several. In the event of the insolvency or other failure of any one or more

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Performing Settling Defendants to implement the requirements of this Consent Decree, the remaining Performing Settling Defendants shall complete all such requirements.

c. Owner Settling Defendants shall, within 30 days of entry of this Consent Decree, convey parcels 1 and 2 by fiduciary deed to the designee of the Performing Settling Defendants.

d. The grantee designated by the Performing Settling Defendants to accept title to parcels 1 and 2 shall not convey any interest in the parcels without prior EPA approval.

7. Compliance With Applicable Law. All activities undertaken by Performing Settling Defendants pursuant to this Consent Decree shall be performed in accordance with the requirements of all applicable federal and state laws and regulations. Performing Settling Defendants must also comply with all applicable or relevant and appropriate requirements of all federal and state environmental laws as set forth in the ROD and the SOW. The activities conducted pursuant to this Consent Decree, if approved by EPA, shall be considered to be consistent with the NCP.

8. Permits.

a. As provided in Section 121(e) of CERCLA and Section 300.400(e) of the NCP, no permit shall be required for any portion of the Work conducted entirely on-site (i.e., within the areal extent of contamination or in very close proximity to the contamination and necessary for implementation of the Work). This paragraph shall not be interpreted to relieve

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any Performing Settling Defendant of the obligation to obtain a Groundwater Management Permit from the State. Where any portion of the Work that is not on-site requires a federal or state permit or approval, Performing Settling Defendants shall submit timely and complete applications and take all other actions necessary to obtain all such permits or approvals.

b. The Performing Settling Defendants may seek relief under the provisions of Section XIX (Force Majeure) of this Consent Decree for any delay in the performance of the Work resulting from a failure to obtain, or a delay in obtaining, any permit required for the Work as long as the Performing Settling Defendants have timely applied for the permit.

c. This Consent Decree is not, and shall not be construed to be, a permit issued pursuant to any federal or state statute or regulation.

9. Notice to Successors-in-Title.

a. With respect to any property owned or controlled by the Settling Defendants that is located within the Site, within 15 days after the entry of this Consent Decree, the Settling Defendants shall submit to EPA for review and approval a notice to be filed with the Recorder's Office Rockingham County Registry of Deeds, Rockingham County, State of New Hampshire, which shall provide notice to all successors-in-title that the property is part of the Site, that EPA selected a remedy for the Site on January 9, 2004, and that potentially responsible parties have entered into a Consent Decree requiring implementation of the remedy. Such notice(s) shall identify the United States District Court in which the Consent Decree was filed, the name and civil action number of this case, and the date the Consent Decree was entered by

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the Court. The Settling Defendants shall record the notice(s) within 10 days of EPA's approval of the notice(s). The Settling Defendants shall provide EPA with a certified copy of the recorded notice(s) within 10 days of recording such notice(s).

b. At least 30 days prior to the conveyance of any interest in property located within the Site including, but not limited to, fee interests, leasehold interests, and mortgage interests, the Settling Defendants conveying the interest shall give the grantee written notice of (i) this Consent Decree, (ii) any instrument by which an interest in real property has been conveyed that confers a right of access to the Site (hereinafter referred to as "access easements") pursuant to Section IX (Access and Institutional Controls), and (iii) any instrument by which an interest in real property has been conveyed that confers a right to enforce restrictions on the use of such property (hereinafter referred to as "restrictive easements") pursuant to Section IX (Access and Institutional Controls). At least 30 days prior to such conveyance, the Settling Defendants conveying the interest shall also give written notice to EPA and the State of the proposed conveyance, including the name and address of the grantee, and the date on which notice of the Consent Decree, access easements, and/or restrictive easements was given to the grantee.

c. In the event of any such conveyance, the Settling Defendants' obligations under this Consent Decree, including, but not limited to, their obligation to provide or secure access and institutional controls, as well as to abide by such institutional controls, pursuant to Section IX (Access and Institutional Controls) of this Consent Decree, shall continue to be met by the Settling Defendants. In no event shall the conveyance release or otherwise affect the

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liability of the Settling Defendants to comply with all provisions of this Consent Decree, absent the prior written consent of EPA. If the United States approves, the grantee may perform some or all of the Work under this Consent Decree.

VI. PERFORMANCE OF THE WORK BY PERFORMING SETTLING DEFENDANTS

10. Selection of Supervising Contractor.

a. All aspects of the Work to be performed by Performing Settling Defendants pursuant to Sections VI (Performance of the Work by Performing Settling Defendants), VII (Remedy Review), VIII (Quality Assurance, Sampling and Data Analysis), and XV (Emergency Response) of this Consent Decree shall be under the direction and supervision of the Supervising Contractor, the selection of which shall be subject to disapproval by EPA after a reasonable opportunity for review and comment by the State. Within 10 days after the lodging of this Consent Decree, Performing Settling Defendants shall notify EPA and the State in writing of the name, title, and qualifications of any contractor proposed to be the Supervising Contractor. With respect to any contractor proposed to be Supervising Contractor, Performing Settling Defendants shall demonstrate that the proposed contractor has a quality system that complies with ANSI/ASQC E4-1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs," (American National Standard, January 5, 1995), by submitting a copy of the proposed contractor's Quality Management Plan (QMP). The QMP should be prepared in accordance with "EPA Requirements for Quality Management Plans (QA/R-2)" (EPA/240/B-01/002, March 2001) or

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equivalent documentation as determined by EPA. EPA will issue a notice of disapproval or an authorization to proceed. If at any time thereafter, Performing Settling Defendants propose to change a Supervising Contractor, Performing Settling Defendants shall give such notice to EPA and the State and must obtain an authorization to proceed from EPA, after a reasonable opportunity for review and comment by the State, before the new Supervising Contractor performs, directs, or supervises any Work under this Consent Decree.

b. If EPA disapproves a proposed Supervising Contractor, EPA will notify Performing Settling Defendants in writing. Performing Settling Defendants shall submit to EPA and the State a list of contractors, including the qualifications of each contractor, that would be acceptable to them within 30 days of receipt of EPA's disapproval of the contractor previously proposed. EPA will provide written notice of the names of any contractor(s) that it disapproves and an authorization to proceed with respect to any of the other contractors. Performing Settling Defendants may select any contractor from that list that is not disapproved and shall notify EPA and the State of the name of the contractor selected within 21 days of EPA's authorization to proceed.

c. If EPA fails to provide written notice of its authorization to proceed or disapproval as provided in this Paragraph and this failure prevents the Performing Settling Defendants from meeting one or more deadlines in a plan approved by the EPA pursuant to this Consent Decree, Performing Settling Defendants may seek relief under the provisions of Section XIX (Force Majeure) hereof.

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11. Remedial Design.

a. Within forty-five (45) days after EPA's issuance of an authorization to proceed pursuant to Paragraph 10, Performing Settling Defendants shall submit to EPA and the State a work plan for the design of the Remedial Action at the Site ("Remedial Design Work Plan" or "RD Work Plan"). The Remedial Design Work Plan shall provide for design of the remedy set forth in the ROD, in accordance with the SOW and for achievement of the Performance Standards and other requirements set forth in the ROD, this Consent Decree and/or the SOW. Upon its approval by EPA, the Remedial Design Work Plan shall be incorporated into and become enforceable under this Consent Decree. Within thirty (30) days after EPA's issuance of an authorization to proceed, the Performing Settling Defendants shall submit to EPA and the State a Health and Safety Plan for field design activities which conforms to the applicable Occupational Safety and Health Administration and EPA requirements including, but not limited to, 29 C.F.R. § 1910.120.

b. The Remedial Design Work Plan shall include plans and schedules for implementation of all remedial design and pre-design tasks identified in the SOW, including, but not limited to, plans and schedules for the completion of: (1) a pre-design soil and sediment investigation; (2) treatability studies; (3) a preliminary design submittal; (4) and intermediate design submittal; and (5) a pre-final/final design (i.e., 90%/100% design) submittals. The Remedial Design Work Plan shall describe all pre-design activities to be conducted and include a Project Operations Plan (POP) which shall consist of: (a) a Site Management Plan (SMP); (b) a Sampling and Analysis Plan (comprised of a Quality Assurance Project Plan (QAPP) in

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accordance with Section VIII (Quality Assurance, Sampling and Data Analysis) and a Field Sampling Plan (FSP)); and (c) a Health and Safety Plan (HSP) for field activities required by the Remedial Design Work Plan which conforms to the applicable Occupational Safety and Health Administration (OSHA) and EPA requirements including, but not limited to, 29 C.F.R. § 1910.120. In addition, the Remedial Design Work Plan shall include a schedule for completion of the Remedial Action Work Plan.

c. Upon approval of the Remedial Design Work Plan by EPA, after a reasonable opportunity for review and comment by the State, and submittal of the Health and Safety Plan for all field activities to EPA and the State, Performing Settling Defendants shall implement the Remedial Design Work Plan. The Performing Settling Defendants shall submit to EPA and the State all plans, submittals and other deliverables required under the approved Remedial Design Work Plan in accordance with the approved schedule for review and approval pursuant to Section XI (EPA Approval of Plans and Other Submissions). Unless otherwise directed by EPA, Performing Settling Defendants shall not commence further Remedial Design activities at the Site prior to approval of the Remedial Design Work Plan.

d. The preliminary design submittal shall include, at a minimum, the following: (1) design criteria; (2) results of treatability studies; (3) results of additional field sampling and pre-design work; (4) project delivery strategy; (5) preliminary plans, drawings and sketches; (6) required specifications in outline form; and (7) preliminary construction schedule.

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e. The intermediate design submittal, if required by EPA or if independently submitted by the Performing Settling Defendants, shall be a continuation and expansion of the preliminary design. Any value engineering proposals must be identified and evaluated during this review.

f. The pre-final/final design (i.e., 90%/100% design) submittals shall include, at a minimum, the following: (1) final plans and specifications; (2) draft Operation and Maintenance Plan; (3) Construction Quality Assurance Project Plan ("CQAPP"); and (4) draft Demonstration of Compliance Plan (directed at measuring progress towards meeting Performance Standards). The CQAPP, which shall detail the approach to quality assurance during construction activities at the Site, shall specify a quality assurance official ("QA Official"), independent of the Supervising Contractor, to conduct a quality assurance program during the construction phase of the project.

12. Remedial Action.

a. Within sixty (60) days after the approval of the final design submittal, Performing Settling Defendants shall submit to EPA and the State a work plan for the performance of the Remedial Action at the Site ("Remedial Action Work Plan"). The Remedial Action Work Plan shall provide for construction and implementation of the remedy set forth in the ROD and achievement of the Performance Standards, in accordance with this Consent Decree, the ROD, the SOW, and the design plans and specifications developed in accordance

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with the Remedial Design Work Plan and approved by EPA. Upon its approval by EPA, the Remedial Action Work Plan shall be incorporated into and become enforceable under this Consent Decree. As part of the Remedial Action Work Plan, Performing Settling Defendants shall submit to EPA and the State a revised Project Operations Plan (POP) for all field activities required by the Remedial Action Work Plan.

b. The Remedial Action Work Plan shall include the following: (1) a schedule for completion of the Remedial Action; (2) a schedule for developing and submitting other required Remedial Action plans and deliverables; (3) a description of all activities necessary to implement the Remedial Action; (4) methods for satisfying permitting requirements; (5) methodology for implementation of the draft Operations and Maintenance Plan; (6) a Contingency Plan that specifies the measures to be taken in the event of an accident or emergency to protect on-Site construction workers and the community; (7) tentative formulation of the Remedial Action team; and (8) procedures and plans for the decontamination of equipment and the disposal of contaminated materials. The Remedial Action Work Plan also shall include the methodology for implementation of the Construction Quality Assurance Plan and a schedule for implementation of all Remedial Action tasks identified in the final design submittal and shall identify the initial formulation of the Performing Settling Defendants' Remedial Action Project Team (including, but not limited to, the Supervising Contractor).

c. Within 60 days of approval of the Remedial Action Work Plan by EPA, after a reasonable opportunity for review and comment by the State, Performing Settling Defendants shall implement the activities required under the Remedial Action Work Plan. The

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Performing Settling Defendants shall submit to EPA and the State all plans, submittals, or other deliverables required under the approved Remedial Action Work Plan in accordance with the approved schedule for review and approval pursuant to Section XI (EPA Approval of Plans and Other Submissions). Unless otherwise directed by EPA, Performing Settling Defendants shall not commence physical Remedial Action activities at the Site prior to approval of the Remedial Action Work Plan.

13. The Performing Settling Defendants shall continue to implement the Remedial Action and O&M until the Performance Standards are achieved and for so long thereafter as is otherwise required under this Consent Decree.

14. Modification of the SOW or Related Work Plans.

a. If EPA determines that modification to the work specified in the SOW and/or in work plans developed pursuant to the SOW is necessary to achieve and maintain the Performance Standards or to carry out and maintain the effectiveness of the remedy set forth in the ROD, EPA may require that such modification be incorporated in the SOW and/or such work plans, provided, however, that a modification may only be required pursuant to this Paragraph to the extent that it is consistent with the scope of the remedy selected in the ROD.

b. For the purposes of this Paragraph 14 and Paragraphs 50 and 51 only, the “scope of the remedy selected in the ROD” shall mean the following:

remediation of contaminated soils, sediment, and groundwater by implementing and maintaining the following key elements of the remedy: removal of contaminated soil and

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sediment for off-Site treatment and disposal; treatment of deeper soils through the use of soil vapor extraction, which may be thermally-enhanced; extraction and on-Site treatment and discharge of groundwater with limited areas of natural attenuation; establishment of institutional controls; and long-term monitoring of groundwater and surface water. These key elements are more fully described in Section L of the January 9, 2004 ROD and the attached SOW, and include achieving Performance Standards as defined in this Consent Decree.

c. If Performing Settling Defendants object to any modification determined by EPA to be necessary pursuant to this Paragraph, they may seek dispute resolution pursuant to Section XX (Dispute Resolution), Paragraph 78 (record review). The SOW and/or related work plans shall be modified in accordance with final resolution of the dispute.

d. Performing Settling Defendants shall implement any work required by any modifications incorporated in the SOW and/or in work plans developed pursuant to the SOW in accordance with this Paragraph.

e. Nothing in this Paragraph shall be construed to limit EPA's authority to require performance of further response actions as otherwise provided in this Consent Decree.

15. Performing Settling Defendants acknowledge and agree that nothing in this Consent Decree, the SOW, or the Remedial Design or Remedial Action Work Plans constitutes a warranty or representation of any kind by Plaintiffs that compliance with the work requirements set forth in the SOW and the Work Plans will achieve the Performance Standards.

16. Off-Site Disposal Requirements

a. Performing Settling Defendants shall, prior to any off-Site shipment of Waste Material from the Site to an out-of-state waste management facility, provide written

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notification to the appropriate state environmental official in the receiving facility's state and to the EPA Project Coordinator of such shipment of Waste Material. However, this notification requirement shall not apply to any off-Site shipments when the total volume of all such shipments will not exceed 10 cubic yards.

(1) The Performing Settling Defendants shall include in the written notification the following information, where available: (1) the name and location of the facility to which the Waste Material is to be shipped; (2) the type and quantity of the Waste Material to be shipped; (3) the expected schedule for the shipment of the Waste Material; and (4) the method of transportation. The Performing Settling Defendants shall notify the state in which the planned receiving facility is located of major changes in the shipment plan, such as a decision to ship the Waste Material to another facility within the same state, or to a facility in another state.

(2) The identity of the receiving facility and state will be determined by the Performing Settling Defendants following the award of the contract for Remedial Action construction. The Performing Settling Defendants shall provide the information required by Paragraph 16.a as soon as practicable after the award of the contract and before the Waste Material is actually shipped.

b. Before shipping any hazardous substances, pollutants, or contaminants from the Site to an off-site location, Performing Settling Defendants shall obtain EPA's certification that the proposed receiving facility is operating in compliance with the requirements

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of CERCLA Section 121(d)(3) and 40 C.F.R. 300.440. Performing Settling Defendants shall only send hazardous substances, pollutants, or contaminants from the Site to an off-site facility that complies with the requirements of the statutory provision and regulations cited in the preceding sentence.

VII. REMEDY REVIEW

17. Periodic Review. Performing Settling Defendants shall conduct any studies and investigations as requested by EPA, in order to permit EPA to conduct reviews of whether the Remedial Action is protective of human health and the environment at least every five years as required by Section 121(c) of CERCLA and any applicable regulations.

18. EPA Selection of Further Response Actions. If EPA determines, at any time, that the Remedial Action is not protective of human health and the environment, EPA may select further response actions for the Site in accordance with the requirements of CERCLA and the NCP.

19. Opportunity To Comment. Performing Settling Defendants and, if required by Sections 113(k)(2) or 117 of CERCLA, the public, will be provided with an opportunity to comment on any further response actions proposed by EPA as a result of the review conducted pursuant to Section 121(c) of CERCLA and to submit written comments for the record during the comment period.

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20. Performing Settling Defendants' Obligation To Perform Further Response

Actions. If EPA selects further response actions for the Site, the Performing Settling Defendants shall undertake such further response actions to the extent that the reopener conditions in Paragraph 96 or Paragraph 97 (United States' reservations of liability based on unknown conditions or new information) are satisfied. Performing Settling Defendants may invoke the procedures set forth in Section XX (Dispute Resolution) to dispute (1) EPA's determination that the reopener conditions of Paragraph 96 or Paragraph 97 of Section XXII (Covenants by Plaintiffs) are satisfied, (2) EPA's determination that the Remedial Action is not protective of human health and the environment, or (3) EPA's selection of the further response actions. Disputes pertaining to whether the Remedial Action is protective or to EPA's selection of further response actions shall be resolved pursuant to Paragraph 78 (record review).

21. Submissions of Plans. If Performing Settling Defendants are required to perform the further response actions pursuant to Paragraph 20, they shall submit a plan for such work to EPA for approval in accordance with the procedures set forth in Section VI (Performance of the Work by Performing Settling Defendants) and shall implement the plan approved by EPA in accordance with the provisions of this Decree.

VIII. QUALITY ASSURANCE, SAMPLING, AND DATA ANALYSIS

22. Performing Settling Defendants shall use quality assurance, quality control, and chain of custody procedures for all treatability, pre-design, design, compliance and monitoring samples in accordance with "EPA Requirements for Quality Assurance Project Plans (QA/R5)"

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(EPA/240/B-01/003, March 2001) "Guidance for Quality Assurance Project Plans (QA/G-5)" (EPA/600/R-98/018, February 1998), and subsequent amendments to such guidelines upon notification by EPA to Performing Settling Defendants of such amendment. Amended guidelines shall apply only to procedures conducted after such notification. Prior to the commencement of any monitoring project under this Consent Decree, Performing Settling Defendants shall submit to EPA for approval, after a reasonable opportunity for review and comment by the State, a Quality Assurance Project Plan ("QAPP") that is consistent with the SOW, the ROD, the NCP and applicable guidance documents. If relevant to the proceeding, the Parties agree that validated sampling data generated in accordance with the QAPP(s) and reviewed and approved by EPA shall be admissible as evidence, without objection, in any proceeding under this Decree. Performing Settling Defendants shall ensure that EPA and State personnel and their authorized representatives are allowed access at reasonable times to all laboratories utilized by Performing Settling Defendants in implementing this Consent Decree. In addition, Performing Settling Defendants shall ensure that such laboratories shall analyze all samples submitted by EPA pursuant to the QAPP for quality assurance monitoring. Performing Settling Defendants shall ensure that the laboratories they utilize for the analysis of samples taken pursuant to this Decree perform all analyses according to accepted EPA methods. Accepted EPA methods consist of those methods which are documented in the "Contract Lab Program Statement of Work for Inorganic Analysis" and the "Contract Lab Program Statement of Work for Organic Analysis," dated February 1988, and any amendments made thereto during the course of the implementation of this Decree; however, upon approval by EPA, after opportunity for review and comment by the State, the Performing Settling Defendants may use

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other analytical methods which are as stringent as or more stringent than the CLP- approved methods. Performing Settling Defendants shall ensure that all laboratories they use for analysis of samples taken pursuant to this Consent Decree participate in an EPA or EPA-equivalent QA/QC program. Performing Settling Defendants shall only use laboratories that have a documented Quality System which complies with ANSI/ASQC E4-1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs," (American National Standard, January 5, 1995), and "EPA Requirements for Quality Management Plans (QA/R-2)," (EPA/240/B-01/002, March 2001) or equivalent documentation as determined by EPA. EPA may consider laboratories accredited under the National Environmental Laboratory Accreditation Program (NELAP) as meeting the Quality System requirements. Performing Settling Defendants shall ensure that all field methodologies utilized in collecting samples for subsequent analysis pursuant to this Decree will be conducted in accordance with the procedures set forth in the QAPP approved by EPA.

23. Upon request, the Performing Settling Defendants shall allow split or duplicate samples to be taken by EPA and the State or their authorized representatives. Performing Settling Defendants shall notify EPA and the State not less than 28 days in advance of any sample collection activity unless shorter notice is agreed to by EPA. In addition, EPA and the State shall have the right to take any additional samples that EPA or the State deem necessary. Upon request, EPA and the State shall allow the Performing Settling Defendants to take split or duplicate samples of any samples they take as part of the Plaintiffs' oversight of the Performing Settling Defendants' implementation of the Work.

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24. Performing Settling Defendants shall simultaneously submit to EPA and the State three (3) copies and one (1) copy, respectively, of the results of all sampling and/or tests or other data obtained or generated by or on behalf of Performing Settling Defendants with respect to the Site and/or the implementation of this Consent Decree unless EPA agrees otherwise.

25. Notwithstanding any provision of this Consent Decree, the United States and the State hereby retain all of their information gathering and inspection authorities and rights, including enforcement actions related thereto, under CERCLA, RCRA and any other applicable statutes or regulations.

IX. ACCESS AND INSTITUTIONAL CONTROLS

26. If the Site, or any other property where access and/or land/water use restrictions are needed to implement this Consent Decree, is owned or controlled by any of the Settling Defendants, such Settling Defendants shall:

a. commencing on the date of lodging of this Consent Decree, provide the United States, the State, and their representatives, including EPA and its contractors, and Performing Settling Defendants with access at all reasonable times to the Site, or such other property, for the purpose of conducting any activity related to this Consent Decree including, but not limited to, the following activities:

(1) Monitoring the Work;

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- (2) Verifying any data or information submitted to the United States or the State;
- (3) Conducting investigations relating to contamination at or near the Site;
- (4) Obtaining samples;
- (5) Assessing the need for, planning, or implementing additional response actions at or near the Site;
- (6) Assessing implementation of quality assurance and quality control practices as defined in the approved Quality Assurance Project Plans;
- (7) Implementing the Work pursuant to the conditions set forth in Paragraph 100 of this Consent Decree;
- (8) Inspecting and copying records, operating logs, contracts, or other documents maintained or generated by Performing Settling Defendants or their agents, consistent with Section XXVI (Access to Information);
- (9) Assessing Performing Settling Defendants' compliance with this Consent Decree;

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(10) Determining whether the Site or other property is being used in a manner that is prohibited or restricted, or that may need to be prohibited or restricted, by or pursuant to this Consent Decree; and

(11) Performing the Work.

b. commencing on the date of lodging of this Consent Decree, refrain from using the Site, or such other property, in any manner that would interfere with or adversely affect the implementation, integrity, or protectiveness of the remedial measures to be performed pursuant to this Consent Decree. Such restrictions include, but are not limited to:

(1) “activity and use restrictions” (AURs) on Parcel 1 of the Site, in accordance with NH DES requirements, to prevent future excavations below a depth of 10 feet as contaminants other than VOCs will remain below 10 feet and because the State of New Hampshire considers soils to a depth of 15 feet below ground surface to be “potentially accessible;”

(2) a Groundwater Management Zone (GMZ), as defined by the State of New Hampshire (Env-Wm 1403), to prevent the installation of new groundwater supply wells by placing restrictions or notifications on the deeds of properties located within the contaminated groundwater plume areas originating from the Site until groundwater has been remediated to meet Interim Groundwater Cleanup Levels outlined in the ROD;

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(3) appropriate public notification measures, such as no fishing signs and education campaigns, to minimize ingestion of fish from Kelley Brook until such time as contaminant levels in fish tissue reach safe levels; and

c. execute and record in the Recorder's Office Rockingham County Registry of Deeds, Rockingham County, State of New Hampshire, an easement, running with the land, that: (i) grants a right of access for the purpose of conducting any activity related to this Consent Decree including, but not limited to, those activities listed in Paragraph 26.a of this Consent Decree, and (ii) grants the right to enforce the land/water use restrictions listed in Paragraph 26.b of this Consent Decree, or other restrictions that EPA determines are necessary to implement, ensure non-interference with, or ensure the protectiveness of the remedial measures to be performed pursuant to this Consent Decree. Such Settling Defendants shall grant the access rights and the rights to enforce the land/water use restrictions to: (i) the United States, on behalf of EPA, and its representatives, (ii) the State and its representatives, (iii) other Performing Settling Defendants and their representatives, and/or (iv) other appropriate grantees. Such Settling Defendants shall, within 45 days of entry of this Consent Decree submit to EPA for review and approval with respect to such property:

(1) A draft easement, in substantially the form attached hereto as Appendix K, that is enforceable under the laws of the State of New Hampshire, and

(2) a current title insurance commitment or some other evidence of title acceptable to EPA, which shows title to the land described in the easement to be free

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and clear of all prior liens and encumbrances, except those listed on Appendix M. The Settling Defendants shall investigate the validity of the excepted liens, and shall attempt to subordinate or discharge those liens, unless said excepted lien is specifically allowed by EPA. Settling Defendants shall provide evidence to EPA that all remaining liens or encumbrances listed in Appendix M have been discharged or subordinated prior to the start of construction or within 12 (twelve) months of the Effective Date of this Decree, whichever is earlier, or demonstrate that despite best efforts, the Settling Defendants have been unable to obtain release or subordination of such prior liens or encumbrances.

Within 15 days of EPA's approval and acceptance of the easement and the title evidence, such Owner Settling Defendants shall update the title search and, if it is determined that nothing has occurred since the effective date of the commitment to affect the title adversely, record the easement with the Recorder's Office Rockingham County Registry of Deeds, Rockingham County. Within 30 days of recording the easement, such Owner Settling Defendants shall provide EPA with a final title insurance policy, or other final evidence of title acceptable to EPA, and a certified copy of the original recorded easement showing the clerk's recording stamps. If the easement is to be conveyed to the United States, the easement and title evidence (including final title evidence) shall be prepared in accordance with the U.S. Department of Justice Title Standards 2001, and approval of the sufficiency of title must be obtained as required by 40 U.S.C. § 255.

27. If the Site, or any other property where access and/or land/water use restrictions are needed to implement this Consent Decree, is owned or controlled by persons other than any

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of the Settling Defendants, Performing Settling Defendants shall use best efforts to secure from such persons:

- a. an agreement to provide access thereto for Performing Settling Defendants, as well as for the United States and the State, as well as their representatives (including contractors), for the purpose of conducting any activity related to this Consent Decree including, but not limited to, those activities listed in Paragraph 26.a of this Consent Decree;
- b. an agreement, enforceable by the Performing Settling Defendants and the United States, to refrain from using the Site, or such other property, in any manner that would interfere with or adversely affect the implementation, integrity, or protectiveness of the remedial measures to be performed pursuant to this Consent Decree. Such restrictions include, but are not limited to those identified in Section IX (Access and Institutional Controls), paragraph 26 herein; and
- c. the execution and recordation in the Recorder's Office Rockingham County Registry of Deeds, of Rockingham County, State of New Hampshire, of an easement, running with the land, that (i) grants a right of access for the purpose of conducting any activity related to this Consent Decree including, but not limited to, those activities listed in Paragraph 26.a of this Consent Decree, and (ii) grants the right to enforce the land/water use restrictions listed in Paragraph 26.b of this Consent Decree, or other restrictions that EPA determines are necessary to implement, ensure non-interference with, or ensure the protectiveness of the remedial measures to be performed pursuant to this Consent Decree. The

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access rights and/or rights to enforce land/water use restrictions shall be granted to (i) the United States, on behalf of EPA, and its representatives, (ii) the State and its representatives, (iii) the Performing Settling Defendants and their representatives, and/or (iv) other appropriate grantees. Within 45 days of entry of this Consent Decree Performing Settling Defendants shall submit to EPA for review and approval with respect to such property:

- (1) A draft easement, in substantially the form attached hereto as Appendix K, that is enforceable under the laws of the State of New Hampshire, and
- (2) a current title insurance commitment, or some other evidence of title acceptable to EPA, which shows title to the land described in the easement to be free and clear of all prior liens and encumbrances, except those listed on Appendix M. The Performing Settling Defendants shall investigate the validity of the excepted liens, and shall attempt to subordinate or discharge those liens, unless said excepted lien is specifically allowed by EPA. Performing Settling Defendants shall provide evidence to EPA that all remaining liens or encumbrances listed in Appendix M have been discharged or subordinated prior to the start of construction or within 12 (twelve) months of the Effective Date of this Decree, whichever is earlier, or demonstrate that despite best efforts, the Performing Settling Defendants have been unable to obtain release or subordination of such prior liens or encumbrances.

Within 15 days of EPA's approval and acceptance of the easement and the title evidence, Performing Settling Defendants shall update the title search and, if it is determined that nothing

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has occurred since the effective date of the commitment to affect the title adversely, the easement shall be recorded with the Recorder's Office Rockingham County Registry of Deeds, Rockingham County. Within 30 days of the recording of the easement, Performing Settling Defendants shall provide EPA with a final title insurance policy, or other final evidence of title acceptable to EPA, and a certified copy of the original recorded easement showing the clerk's recording stamps. If the easement is to be conveyed to the United States, the easement and title evidence (including final title evidence) shall be prepared in accordance with the U.S. Department of Justice Title Standards 2001, and approval of the sufficiency of title must be obtained as required by 40 U.S.C. § 255.

28. For purposes of Paragraphs 26 and 27 of this Consent Decree, "best efforts" includes the payment of reasonable sums of money in consideration of access, access easements, land/water use restrictions, restrictive easements, and/or an agreement to release or subordinate a prior lien or encumbrance. If (a) any access or land/water use restriction agreements required by Paragraphs 27.a or 27.b of this Consent Decree are not obtained within 45 days of the date of entry of this Consent Decree, (b) any access easements or restrictive easements required by Paragraph 27.c of this Consent Decree are not submitted to EPA in draft form within 45 days of the date of entry of this Consent Decree or (c) Performing Settling Defendants are unable to obtain an agreement pursuant to Paragraph 26.c.(1) or Paragraph 27.c.(1) from the holder of a prior lien or encumbrance to release or subordinate such lien or encumbrance to the easement being created pursuant to this consent decree within 45 days of the date of entry of this Consent Decree, Performing Settling Defendants shall promptly notify the United States in writing, and

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shall include in that notification a summary of the steps that Performing Settling Defendants have taken to attempt to comply with Paragraph 26 or 27 of this Consent Decree. The United States may, as it deems appropriate, assist Performing Settling Defendants in obtaining access or land/water use restrictions, either in the form of contractual agreements or in the form of easements running with the land, or in obtaining the release or subordination of a prior lien or encumbrance. Performing Settling Defendants shall reimburse the United States in accordance with the procedures in Section XVI (Payments for Response Costs), for all costs incurred, direct or indirect, by the United States in obtaining such access, land/water use restrictions, and/or the release/subordination of prior liens or encumbrances including, but not limited to, the cost of attorney time and the amount of monetary consideration paid or just compensation.

29. If EPA determines that land/water use restrictions in the form of state or local laws, regulations, ordinances or other governmental controls are needed to implement the remedy selected in the ROD, ensure the integrity and protectiveness thereof, or ensure non-interference therewith, Performing Settling Defendants shall cooperate with EPA's and the State's efforts to secure such governmental controls.

30. Notwithstanding any provision of this Consent Decree, the United States and the State retain all of their access authorities and rights, as well as all of their rights to require land/water use restrictions, including enforcement authorities related thereto, under CERCLA, RCRA and any other applicable statute or regulations.

X. REPORTING REQUIREMENTS

31. In addition to any other requirement of this Consent Decree, Performing Settling Defendants shall submit to EPA and the State of New Hampshire copies of written monthly progress reports that: (a) describe the actions which have been taken toward achieving compliance with this Consent Decree during the previous month; (b) include a summary of all results of sampling and tests and all other data received or generated by Performing Settling Defendants or their contractors or agents in the previous month; (c) identify all work plans, plans and other deliverables required by this Consent Decree completed and submitted during the previous month; (d) describe all actions, including, but not limited to, data collection and implementation of work plans, which are scheduled for the next six weeks and provide other information relating to the progress of construction, including, but not limited to, critical path diagrams, Gantt charts and Pert charts; (e) include information regarding percentage of completion, unresolved delays encountered or anticipated that may affect the future schedule for implementation of the Work, and a description of efforts made to mitigate those delays or anticipated delays; (f) include any modifications to the work plans or other schedules that Performing Settling Defendants have proposed to EPA or that have been approved by EPA; and (g) describe all activities undertaken in support of the Community Relations Plan during the previous month and those to be undertaken in the next six weeks. Performing Settling Defendants shall submit these progress reports to EPA and the State by the tenth day of every month following the lodging of this Consent Decree until EPA notifies the Performing Settling Defendants pursuant to Paragraph 51.b of Section XIV (Certification of Completion). If

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requested by EPA or the State, Performing Settling Defendants shall also provide briefings for EPA and the State to discuss the progress of the Work.

32. The Performing Settling Defendants shall notify EPA of any change in the schedule described in the monthly progress report for the performance of any activity, including, but not limited to, data collection and implementation of work plans, no later than seven days prior to the performance of the activity.

33. Upon the occurrence of any event during performance of the Work that Performing Settling Defendants are required to report pursuant to Section 103 of CERCLA or Section 304 of the Emergency Planning and Community Right-to-Know Act (EPCRA), Performing Settling Defendants shall within 24 hours of the onset of such event orally notify the EPA Project Coordinator or the Alternate EPA Project Coordinator (in the event of the unavailability of the EPA Project Coordinator), or, in the event that neither the EPA Project Coordinator or Alternate EPA Project Coordinator is available, the Emergency Response Section, Region 1, United States Environmental Protection Agency. These reporting requirements are in addition to the reporting required by CERCLA Section 103 or EPCRA Section 304.

34. Within 20 days of the onset of such an event, Performing Settling Defendants shall furnish to Plaintiffs a written report, signed by the Performing Settling Defendants' Project Coordinator, setting forth the events which occurred and the measures taken, and to be taken, in

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response thereto. Within 30 days of the conclusion of such an event, Performing Settling Defendants shall submit a report setting forth all actions taken in response thereto.

35. Performing Settling Defendants shall submit three (3) copies of all plans, reports, and data required by the SOW, the Remedial Design Work Plan, the Remedial Action Work Plan, or any other approved plans to EPA in accordance with the schedules set forth in such plans. Performing Settling Defendants shall simultaneously submit one (1) copy of all such plans, reports and data to the State. Upon request by EPA, Performing Settling Defendants shall submit in electronic form all portions of any report or other deliverable Performing Settling Defendants are required to submit pursuant to the provisions of this Consent Decree.

36. All reports and other documents submitted by Performing Settling Defendants to EPA (other than the monthly progress reports referred to above) which purport to document Performing Settling Defendants' compliance with the terms of this Consent Decree shall be signed by an authorized representative of the Performing Settling Defendants.

XI. EPA APPROVAL OF PLANS AND OTHER SUBMISSIONS

37. After review of any plan, report or other item which is required to be submitted for approval pursuant to this Consent Decree, EPA, after reasonable opportunity for review and comment by the State, shall: (a) approve, in whole or in part, the submission; (b) approve the submission upon specified conditions; (c) modify the submission to cure the deficiencies;

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(d) disapprove, in whole or in part, the submission, directing that the Performing Settling Defendants modify the submission; or (e) any combination of the above. However, EPA shall not modify a submission without first providing Performing Settling Defendants at least one notice of deficiency and an opportunity to cure within thirty (30) days, except where to do so would cause serious disruption to the Work or where previous submission(s) have been disapproved due to material defects and the deficiencies in the submission under consideration indicate a bad faith lack of effort to submit an acceptable deliverable.

38. In the event of approval, approval upon conditions, or modification by EPA, pursuant to Paragraph 37(a), (b), or (c), Performing Settling Defendants shall proceed to take any action required by the plan, report, or other item, as approved or modified by EPA and subject only to their right to invoke the Dispute Resolution procedures set forth in Section XX (Dispute Resolution) with respect to the modifications or conditions made by EPA. In the event that EPA modifies the submission to cure the deficiencies pursuant to Paragraph 37(c) and the submission has a material defect, EPA retains its right to seek stipulated penalties, as provided in Section XXI (Stipulated Penalties).

39. Resubmission of Plans.

a. Upon receipt of a notice of disapproval pursuant to Paragraph 37(d), Performing Settling Defendants shall, within thirty (30) days or such longer time as specified by EPA in such notice, correct the deficiencies and resubmit the plan, report, or other item for approval. Any stipulated penalties applicable to the submission, as provided in Section XXI

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(Stipulated Penalties), shall accrue during the thirty (30)-day period or otherwise specified period but shall not be payable unless the resubmission is disapproved or modified due to a material defect as provided in Paragraphs 40 and 41.

b. Notwithstanding the receipt of a notice of disapproval pursuant to Paragraph 37(d), Performing Settling Defendants shall proceed, at the direction of EPA, to take any action required by any non-deficient portion of the submission. Implementation of any non-deficient portion of a submission shall not relieve Performing Settling Defendants of any liability for stipulated penalties under Section XXI (Stipulated Penalties).

40. In the event that a resubmitted plan, report or other item, or portion thereof, is disapproved by EPA, EPA may again require the Performing Settling Defendants to correct the deficiencies, in accordance with the preceding Paragraphs. EPA also retains the right to modify or develop the plan, report or other item. Performing Settling Defendants shall implement any such plan, report, or item as modified or developed by EPA, subject only to their right to invoke the procedures set forth in Section XX (Dispute Resolution).

41. If upon resubmission, a plan, report, or item is disapproved or modified by EPA due to a material defect, Performing Settling Defendants shall be deemed to have failed to submit such plan, report, or item timely and adequately unless the Performing Settling Defendants invoke the dispute resolution procedures set forth in Section XX (Dispute Resolution) and EPA's action is overturned pursuant to that Section. The provisions of Section XX (Dispute Resolution) and Section XXI (Stipulated Penalties) shall govern the implementation of the Work and accrual and

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payment of any stipulated penalties during Dispute Resolution. If EPA's disapproval or modification is upheld, stipulated penalties shall accrue for such violation from the date on which the initial submission was originally required, as provided in Section XXI (Stipulated Penalties).

42. All plans, reports, and other items required to be submitted to EPA under this Consent Decree shall, upon approval or modification by EPA, be enforceable under this Consent Decree. In the event EPA approves or modifies a portion of a plan, report, or other item required to be submitted to EPA under this Consent Decree, the approved or modified portion shall be enforceable under this Consent Decree.

XII. PROJECT COORDINATORS

43. Within 20 days of lodging this Consent Decree, Performing Settling Defendants, the State and EPA will notify each other, in writing, of the name, address and telephone number of their respective designated Project Coordinators and Alternate Project Coordinators. If a Project Coordinator or Alternate Project Coordinator initially designated is changed, the identity of the successor will be given to the other Parties at least 5 working days before the changes occur, unless impracticable, but in no event later than the actual day the change is made. The Performing Settling Defendants' Project Coordinator shall be subject to disapproval by EPA and shall have the technical expertise sufficient to adequately oversee all aspects of the Work. The Performing Settling Defendants' Project Coordinator shall not be an attorney for any of the Performing Settling Defendants in this matter. He or she may assign other representatives,

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including other contractors, to serve as a Site representative for oversight of performance of daily operations during remedial activities.

44. Plaintiffs may designate other representatives, including, but not limited to, EPA and State employees, and federal and State contractors and consultants, to observe and monitor the progress of any activity undertaken pursuant to this Consent Decree. EPA's Project Coordinator and Alternate Project Coordinator shall have the authority lawfully vested in a Remedial Project Manager (RPM) and an On-Scene Coordinator (OSC) by the National Contingency Plan, 40 C.F.R. Part 300. In addition, EPA's Project Coordinator or Alternate Project Coordinator shall have authority, consistent with the National Contingency Plan, to halt any Work required by this Consent Decree and to take any necessary response action when s/he determines that conditions at the Site constitute an emergency situation or may present an immediate threat to public health or welfare or the environment due to release or threatened release of Waste Material.

45. EPA's Project Coordinator and the Performing Settling Defendants' Project Coordinator will meet, at a minimum, on a monthly basis.

XIII. ASSURANCE OF ABILITY TO COMPLETE WORK

46. Within 30 days of entry of this Consent Decree, Performing Settling Defendants shall establish and maintain financial security in the amount of \$48 million in one or more of the following forms:

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- a. A surety bond guaranteeing performance of the Work;
- b. One or more irrevocable letters of credit equaling the total estimated cost of the Work;
- c. A trust fund;
- d. A guarantee to perform the Work by one or more parent corporations or subsidiaries, or by one or more unrelated corporations that have a substantial business relationship with at least one of the Performing Settling Defendants;
- e. A demonstration that one or more of the Performing Settling Defendants satisfy the requirements of 40 C.F.R. Part 264.143(f). If Performing Settling Defendants elect to establish and maintain financial security by demonstrating pursuant to this Subparagraph 46.e., Performing Settling Defendants shall not be required to submit the letter required by 40 C.F.R. Part 264.143(f)(3)(i), provided that (1) one or more of the Performing Settling Defendants maintains a market capitalization of over \$50 billion, which shall be demonstrated by submission of annual audited financial statements and/or annual reports to EPA.

47. If the Performing Settling Defendants seek to demonstrate the ability to complete the Work through a guarantee by a third party pursuant to Paragraph 46.d of this Consent Decree, Performing Settling Defendants shall demonstrate that the guarantor satisfies the requirements of 40 C.F.R. Part 264.143(f). If Performing Settling Defendants seek to demonstrate their ability to complete the Work by means of the financial test or the corporate

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guarantee pursuant to Paragraph 46.d or 46.e, they shall resubmit sworn statements conveying the information required by 40 C.F.R. Part 264.143(f) annually, on the anniversary of the Effective Date. In the event that EPA, after a reasonable opportunity for review and comment by the State, determines at any time that the financial assurances provided pursuant to this Section are inadequate, Performing Settling Defendants shall, within 30 days of receipt of notice of EPA's determination, obtain and present to EPA for approval one of the other forms of financial assurance listed in Paragraph 46 of this Consent Decree. Performing Settling Defendants' inability to demonstrate financial ability to complete the Work shall not excuse performance of any activities required under this Consent Decree.

48. If Performing Settling Defendants can show that the estimated cost to complete the remaining Work has diminished below the amount set forth in Paragraph 46 above after entry of this Consent Decree, Performing Settling Defendants may, on any anniversary date of entry of this Consent Decree, or at any other time agreed to by the Parties, reduce the amount of the financial security provided under this Section to the estimated cost of the remaining work to be performed. Performing Settling Defendants shall submit a proposal for such reduction to EPA, in accordance with the requirements of this Section, and may reduce the amount of the security upon approval by EPA. In the event of a dispute, Performing Settling Defendants may reduce the amount of the security in accordance with the final administrative or judicial decision resolving the dispute.

49. Performing Settling Defendants may change the form of financial assurance provided under this Section at any time, upon notice to and approval by EPA, provided that the

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new form of assurance meets the requirements of this Section. In the event of a dispute, Performing Settling Defendants may change the form of the financial assurance only in accordance with the final administrative or judicial decision resolving the dispute.

XIV. CERTIFICATION OF COMPLETION

50. Completion of the Remedial Action.

a. Within 90 days after Performing Settling Defendants conclude that the Remedial Action has been fully performed and the Performance Standards have been attained, Performing Settling Defendants shall schedule and conduct a pre-certification inspection to be attended by Performing Settling Defendants, and EPA, and the State. If, after the pre-certification inspection, the Performing Settling Defendants still believe that the Remedial Action has been fully performed and the Performance Standards have been attained, they shall submit a written report requesting certification to EPA for approval, with a copy to the State, pursuant to Section XI (EPA Approval of Plans and Other Submissions) within 30 days of the inspection. In the report, a registered professional engineer and the Performing Settling Defendants' Project Coordinator shall state that the Remedial Action has been completed in full satisfaction of the requirements of this Consent Decree. The written report shall include as-built drawings signed and stamped by a professional engineer. The report shall contain the following statement, signed by a responsible corporate official of a Performing Settling Defendant or the Performing Settling Defendants' Project Coordinator:

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To the best of my knowledge, after thorough investigation, I certify that the information contained in or accompanying this submission is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

If, after completion of the pre-certification inspection and receipt and review of the written report, EPA, after reasonable opportunity to review and comment by the State, determines that the Remedial Action or any portion thereof has not been completed in accordance with this Consent Decree or that the Performance Standards have not been achieved, EPA will notify Performing Settling Defendants in writing of the activities that must be undertaken by Performing Settling Defendants pursuant to this Consent Decree to complete the Remedial Action and achieve the Performance Standards, provided, however, that EPA may only require Performing Settling Defendants to perform such activities pursuant to this Paragraph to the extent that such activities are consistent with the "scope of the remedy selected in the ROD," as that term is defined in Paragraph 14.b. EPA will set forth in the notice a schedule for performance of such activities consistent with the Consent Decree and the SOW or require the Performing Settling Defendants to submit a schedule to EPA for approval pursuant to Section XI (EPA Approval of Plans and Other Submissions). Performing Settling Defendants shall perform all activities described in the notice in accordance with the specifications and schedules established pursuant to this Paragraph, subject to their right to invoke the dispute resolution procedures set forth in Section XX (Dispute Resolution).

b. If EPA concludes, based on the initial or any subsequent report requesting Certification of Completion and after a reasonable opportunity for review and comment by the State, that the Remedial Action has been performed in accordance with this Consent Decree and

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that the Performance Standards have been achieved, EPA will so certify in writing to Performing Settling Defendants. This certification shall constitute the Certification of Completion of the Remedial Action for purposes of this Consent Decree, including, but not limited to, Section XXII (Covenants by Plaintiffs). Certification of Completion of the Remedial Action shall not affect Performing Settling Defendants' obligations under this Consent Decree.

51. Completion of the Work.

a. Within 90 days after Performing Settling Defendants conclude that all phases of the Work (including O & M) have been fully performed, Performing Settling Defendants shall schedule and conduct a pre-certification inspection to be attended by Performing Settling Defendants, and EPA and the State. If, after the pre-certification inspection, the Performing Settling Defendants still believe that the Work has been fully performed, Performing Settling Defendants shall submit a written report by a registered professional engineer stating that the Work has been completed in full satisfaction of the requirements of this Consent Decree. The report shall contain the following statement, signed by a responsible corporate official of a Performing Settling Defendant or the Performing Settling Defendants' Project Coordinator:

To the best of my knowledge, after thorough investigation, I certify that the information contained in or accompanying this submission is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

If, after review of the written report, EPA, after reasonable opportunity to review and comment by the State, determines that any portion of the Work has not been completed in accordance with this Consent Decree, EPA will notify Performing Settling Defendants in writing of the activities

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that must be undertaken by Performing Settling Defendants pursuant to this Consent Decree to complete the Work, provided, however, that EPA may only require Performing Settling Defendants to perform such activities pursuant to this Paragraph to the extent that such activities are consistent with the "scope of the remedy selected in the ROD," as that term is defined in Paragraph 14.b. EPA will set forth in the notice a schedule for performance of such activities consistent with the Consent Decree and the SOW or require the Performing Settling Defendants to submit a schedule to EPA for approval pursuant to Section XI (EPA Approval of Plans and Other Submissions). Performing Settling Defendants shall perform all activities described in the notice in accordance with the specifications and schedules established therein, subject to their right to invoke the dispute resolution procedures set forth in Section XX (Dispute Resolution).

b. If EPA concludes, based on the initial or any subsequent request for Certification of Completion by Performing Settling Defendants and after a reasonable opportunity for review and comment by the State, that the Work has been performed in accordance with this Consent Decree, EPA will so notify the Performing Settling Defendants in writing.

XV. EMERGENCY RESPONSE

52. In the event of any action or occurrence during the performance of the Work which causes or threatens a release of Waste Material from the Site that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment, Performing Settling Defendants shall, subject to Paragraph 53, immediately take all appropriate action to prevent, abate, or minimize such release or threat of release, and shall

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immediately notify the EPA's Project Coordinator, or, if the Project Coordinator is unavailable, EPA's Alternate Project Coordinator. If neither of these persons is available, the Performing Settling Defendants shall notify the EPA Emergency Response Unit, Region 1. Performing Settling Defendants shall take such actions in consultation with EPA's Project Coordinator or other available authorized EPA officer and in accordance with all applicable provisions of the Health and Safety Plans, the Contingency Plans, and any other applicable plans or documents developed pursuant to the SOW. In the event that Performing Settling Defendants fail to take appropriate response action as required by this Section, and EPA or, as appropriate, the State, takes such action instead, Performing Settling Defendants shall reimburse EPA or the State for all costs of the response action not inconsistent with the NCP pursuant to Section XVI (Payments for Response Costs).

53. Nothing in the preceding Paragraph or in this Consent Decree shall be deemed to limit any authority of the United States, or the State: a) to take all appropriate action to protect human health and the environment or to prevent, abate, respond to, or minimize an actual or threatened release of Waste Material on, at, or from the Site; or b) to direct or order such action, or seek an order from the Court, to protect human health and the environment or to prevent, abate, respond to, or minimize an actual or threatened release of Waste Material on, at, or from the Site, subject to Section XXII (Covenants by Plaintiffs).

XVI. PAYMENTS FOR RESPONSE COSTS BY PERFORMING SETTLING DEFENDANTS AND SETTLING FEDERAL AGENCIES

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54. Within 45 days of the Effective Date, Performing Settling Defendants shall pay to the State \$ 814,458.42 in the form of a certified check made payable to Treasurer, State of New Hampshire, in reimbursement of State Past Response Costs. The Performing Settling Defendants shall send the certified or cashier's check(s) to the attention of Senior Assistant Attorney General Jennifer J. Patterson, Office of the Attorney General, 33 Capitol Street, Concord, NH 03301.

55. As soon as reasonably practicable after the effective date of this Consent Decree, the United States, on behalf of the Settling Federal Agencies, shall pay, as directed by EPA, \$13,843,842.35, which payment includes a Premium Payment for Future Response Costs, in reimbursement of U.S. Past Response Costs, U.S. Oversight Costs, and U.S. Future Response Costs; State Past Response Costs, State Oversight Costs, and State Future Response Costs; and Performing Settling Defendants' response costs.

56. In the event that payment required by Paragraph 54 is not made within 60 (sixty) days of the Effective Date of this Consent Decree, Interest on the unpaid balance shall be paid at the rate established pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), commencing on the date of signature on this Consent Decree and accruing through the date of the payment. In the event that payments required by Paragraph 55 are not made within 120 (one hundred twenty) days of the Effective Date of this Consent Decree, Interest on the unpaid balance shall be paid at the rate established pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), commencing on the Effective Date of this Consent Decree and accruing through the date of payment.

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57. The Parties to this Consent Decree recognize and acknowledge that the payment obligations of the Settling Federal Agencies under this Consent Decree can only be paid from appropriated funds legally available for such purpose. Nothing in this Consent Decree shall be interpreted or construed as a commitment or requirement that any Settling Federal Agency obligate or pay funds in contravention of the Anti-Deficiency Act, 31 U.S.C. § 1341, or any other applicable provision of law.

58. Payments for U.S. Oversight Costs and U.S. Future Response Costs.

a. Performing Settling Defendants shall pay to EPA up to \$7,223,506 of all U.S. Oversight Costs not inconsistent with the National Contingency Plan. On a periodic basis the United States will send Performing Settling Defendants a bill requiring payment annually that includes an Itemized Cost Summary from EPA's Integrated Financial Management System (IFMS), which includes direct costs, indirect costs and any contractual costs incurred by EPA and DOJ. The United States will use best efforts to send the Performing Settling Defendants a bill at least annually. Performing Settling Defendants shall make all payments within 30 days of Performing Settling Defendants' receipt of each bill requiring payment, except that if there is more than 15 (fifteen) months between Performing Settling Defendants' receipt of such bills from the United States for U.S. Oversight Costs, Performing Settling Defendants shall have an additional 15 (fifteen) days to make payment, and except as otherwise provided in Paragraph 59.

b. Performing Settling Defendants shall pay to EPA all U.S. Future Response Costs not inconsistent with the National Contingency Plan. On a periodic basis the United States will send Performing Settling Defendants a bill requiring payment annually that includes an

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Itemized Cost Summary from EPA's Integrated Financial Management System (IFMS), which includes direct costs, indirect costs and any contractual costs incurred by EPA and DOJ. The United States will use best efforts to send the Performing Settling Defendants a bill at least annually. Performing Settling Defendants shall make all payments within 30 days of Performing Settling Defendants' receipt of each bill requiring payment, except that if there is more than 15 (fifteen) months between Performing Settling Defendants' receipt of such bills from the United States for U.S. Future Response, Performing Settling Defendants shall have an additional 15 (fifteen) days to make payment, and except as otherwise provided in Paragraph 59.

c. Performing Settling Defendants shall make all payments required by this Paragraph by a certified or cashier's check or checks made payable to "EPA Hazardous Substance Superfund," referencing the name and address of the party making the payment, EPA Site/Spill ID Number 011T, and DOJ Case Number 90-11-3-07039/9. Performing Settling Defendants shall send the check(s) to:

EPA Superfund,
Superfund Accounting, Region I
Beede Superfund Site (ID #011T)
P.O. Box 360197M, Pittsburgh, PA 15251

d. At the time of each payment, Performing Settling Defendants shall send notice that the payment has been made to the United States, to EPA and to the Regional Financial Management Officer, in accordance with Section XXVIII (Notices and Submissions).

e. The total amount to be paid by Performing Setting Defendants pursuant to Subparagraphs 58.a. and 58.b. shall be deposited in the Beede Waste Oil Superfund Site

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Special Account within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund.

f. Performing Settling Defendants shall pay to the State up to \$2,142,973 of all State Oversight Costs that are not inconsistent with the National Contingency Plan, in installments of not more than \$115,000 per calendar year. The State will send Performing Settling Defendants a bill requiring payment that includes an itemized cost summary which includes direct and indirect costs incurred by the State and its contractors on a periodic basis, but in any event not less than once per calendar year. Performing Settling Defendants shall make all payments within 30 days of Performing Settling Defendants' receipt of each bill requiring payment, except as otherwise provided in Paragraph 59. The Performing Settling Defendants shall make all payments to the State required by this Paragraph in the manner described in Paragraph 54.

g. Performing Settling Defendants shall reimburse the State for all State Future Response Costs not inconsistent with the National Contingency Plan. The State will send Performing Settling Defendants a bill requiring payment that includes an itemized cost summary which includes direct and indirect costs incurred by the State and its contractors on a periodic basis, but in any event not less than once per calendar year. Performing Settling Defendants shall make all payments within 30 days of Performing Settling Defendants' receipt of each bill requiring payment, except as otherwise provided in Paragraph 59. The Performing Settling

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Defendants shall make all payments to the State required by this Paragraph in the manner described in Paragraph 54.

59. Performing Settling Defendants may contest payment of any U.S. Oversight Costs, U.S. Future Response Costs, State Oversight Costs, or State Future Response Costs under Paragraph 58 if they determine that the United States or the State has made an accounting error or if they allege that a cost item that is included represents costs that are inconsistent with the NCP. Such objection shall be made in writing within 30 days of receipt of the bill and must be sent to the United States (if the United States' accounting is being disputed) or the State (if the State's accounting is being disputed) pursuant to Section XXVIII (Notices and Submissions). Any such objection shall specifically identify the contested U.S. Oversight Costs, U.S. Future Response Costs, State Oversight Costs, or State Future Response Costs and the basis for objection. In the event of an objection, the Performing Settling Defendants shall within the 30 day period pay all uncontested U.S. Oversight Costs, U.S. Future Response Costs, State Oversight Costs and State Future Response Costs to the United States or the State in the manner described in Paragraph 58. Simultaneously, the Performing Settling Defendants shall establish an interest-bearing escrow account in a federally-insured bank duly chartered in the State of New Hampshire and remit to that escrow account funds equivalent to the amount of the contested U.S. Oversight Costs, U.S. Future Response Costs, State Oversight Costs and State Future Response Costs. The Performing Settling Defendants shall send to the United States, as provided in Section XXVIII (Notices and Submissions), and the State a copy of the transmittal letter and check paying the uncontested U.S. Oversight Costs, U.S. Future Response Costs, State Oversight Costs and State Future Response Costs, and a copy of the correspondence that

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establishes and funds the escrow account, including, but not limited to, information containing the identity of the bank and bank account under which the escrow account is established as well as a bank statement showing the initial balance of the escrow account. Simultaneously with establishment of the escrow account, the Performing Settling Defendants shall initiate the Dispute Resolution procedures in Section XX (Dispute Resolution). If the United States or the State prevails in the dispute, within 5 days of the resolution of the dispute, the Performing Settling Defendants shall pay the sums due (with accrued interest) to the United States or the State, if State costs are disputed, in the manner described in Paragraph 58. If the Performing Settling Defendants prevail concerning any aspect of the contested costs, the Performing Settling Defendants shall pay that portion of the costs (plus associated accrued interest) for which they did not prevail to the United States or the State, if State costs are disputed in the manner described in Paragraph 58; Performing Settling Defendants shall be disbursed any balance of the escrow account. The dispute resolution procedures set forth in this Paragraph in conjunction with the procedures set forth in Section XX (Dispute Resolution) shall be the exclusive mechanisms for resolving disputes regarding the Performing Settling Defendants' obligation to reimburse the United States and the State for their U.S. and State Oversight Costs, and U.S. and State Future Response Costs.

60. In the event that the payments required by Paragraph 54 are not made within 60 days of the Effective Date or the payments required by Paragraph 58 are not made within 60 days of the Performing Settling Defendants' receipt of the bill, Performing Settling Defendants shall pay Interest on the unpaid balance. The Interest to be paid on Past Response Costs and State Past Response Costs under this Paragraph shall begin to accrue on the date of signature on

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the Consent Decree. The Interest on U.S. Oversight Costs, State Oversight Costs, U.S. Future Response Costs and State Future Response Costs shall begin to accrue on the date of the bill. The Interest shall accrue through the date of the Performing Settling Defendants' payment. Payments of Interest made under this Paragraph shall be in addition to such other remedies or sanctions available to Plaintiffs by virtue of Performing Settling Defendants' failure to make timely payments under this Section including, but not limited to, payment of stipulated penalties pursuant to Paragraph 83. The Performing Settling Defendants shall make all payments required by this Paragraph in the manner described in Paragraph 58.

XVII. DISBURSEMENT OF SPECIAL ACCOUNT FUNDS

61. Creation of Beede Waste Oil Superfund Site Disbursement Special Account and Agreement to Disburse Funds to Performing Settling Defendants. Within 30 days after the Effective Date, EPA shall establish a new special account, the Beede Waste Oil Superfund Site Disbursement Special Account, within the EPA Hazardous Substance Superfund and shall transfer \$1,097,566.16 from the Beede Waste Oil Superfund Site Special Account to the Beede Waste Oil Superfund Site Disbursement Special Account. Subject to the terms and conditions set forth in this Section, EPA agrees to make the funds in the Beede Waste Oil Superfund Site Disbursement Special Account, including Interest Earned on the funds in the Beede Waste Oil Superfund Site Disbursement Special Account, available for disbursement to Performing Settling Defendants as partial reimbursement for performance of the Work under this Consent Decree. EPA shall disburse funds from the Beede Waste Oil Superfund Site Disbursement Special

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Account to Performing Settling Defendants in accordance with the procedures and milestones for phased disbursement set forth in this Section.

62. Timing, Amount and Method of Disbursing Funds From the Beede Waste Oil Superfund Site Disbursement Special Account. Within 60 days of EPA's receipt of a Cost Summary and Certification, as defined by Subparagraph 63.b, or if EPA has requested additional information under Subparagraph 63.b or a revised Cost Summary and Certification under Subparagraph 63.c, within 60 days of receipt of the additional information or revised Cost Summary and Certification, and subject to the conditions set forth in this Section, EPA shall disburse the funds from the Beede Waste Oil Superfund Site Disbursement Special Account at the completion of the following milestones, and in the amounts set forth below:

<u>Milestone</u>	<u>Disbursement of Funds</u>
1. EPA approval of the Remedial Design Work Plan	Up to \$500,000 from the Beede Waste Oil Superfund Site Disbursement Special Account.
2. EPA Approval of the 100% Remedial Design Report	One hundred percent (100%) of remaining funds from the Beede Waste Oil Superfund Site Disbursement Special Account.

EPA shall disburse the funds from the Beede Waste Oil Superfund Site Disbursement Special Account to Performing Settling Defendants in a manner acceptable to EPA.

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63. Requests for Disbursement of Special Account Funds.

a. Within 10 days of issuance of EPA's written confirmation that a milestone of the Work, as defined in Paragraph 62, has been satisfactorily completed, Performing Settling Defendants shall submit to EPA a Cost Summary and Certification, as defined in Subparagraph 63.b, covering the Work performed pursuant to this Consent Decree up to the date of completion of that milestone. Performing Settling Defendants shall not include in any submission costs included in a previous Cost Summary and Certification following completion of an earlier milestone of the Work if those costs have been previously reimbursed pursuant to Paragraph 62.

b. Each Cost Summary and Certification shall include a complete and accurate written cost summary and certification of the necessary costs incurred and paid by Performing Settling Defendants for the Work covered by the particular submission, excluding costs not eligible for disbursement under Paragraph 64. Each Cost Summary and Certification shall contain the following statement signed by the Chief Financial Officer of a Settling Defendant, an Independent Certified Public Accountant, or other specified independent person approved by EPA:

To the best of my knowledge, after thorough investigation and review of Performing Settling Defendants' documentation of costs incurred and paid for Work performed pursuant to this Consent Decree [insert, as appropriate, "up to the date of completion of milestone 1," "between the date of completion of milestone 1 and the date of completion of milestone 2,"] I certify that the information contained in or accompanying this

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submittal is true, accurate, and complete. I am aware that there are significant penalties for knowingly submitting false information, including the possibility of fine and imprisonment.

The Chief Financial Officer of a Settling Defendant, an Independent Certified Public Accountant, or other specified independent person approved by EPA shall also provide EPA a list of the documents that he or she reviewed in support of the Cost Summary and Certification. Upon request by EPA, Performing Settling Defendants shall submit to EPA any additional information that EPA deems necessary for its review and approval of a Cost Summary and Certification.

c. If EPA finds that a Cost Summary and Certification includes a mathematical accounting error, costs excluded under Paragraph 64, costs that are inadequately documented, or costs submitted in a prior Cost Summary and Certification, it will notify Performing Settling Defendants and provide an opportunity to cure the deficiency by submitting a revised Cost Summary and Certification. If Performing Settling Defendants fail to cure the deficiency within 20 days after being notified of, and given the opportunity to cure, the deficiency, EPA will recalculate Performing Settling Defendants' costs eligible for disbursement for that submission and disburse the corrected amount to Performing Settling Defendants in accordance with the procedures in Paragraph 62 of this Section. Performing Settling Defendants may dispute EPA's recalculation under this Paragraph pursuant to Section XX (Dispute Resolution). In no event shall Performing Settling Defendants be disbursed funds from the

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Beede Waste Oil Superfund Site Disbursement Special Account in excess of amounts properly documented in a Cost Summary and Certification accepted or modified by EPA.

64. Costs Excluded from Disbursement. The following costs are excluded from, and shall not be sought by Performing Settling Defendants for, disbursement from the Beede Waste Oil Superfund Site Disbursement Special Account: (a) response costs paid pursuant to Paragraph 54 of Section XVI (Payments for Response Costs); (b) any other payments made by Settling Defendants to the United States pursuant to this Consent Decree, including, but not limited to, any interest or stipulated penalties paid pursuant to Sections XXI (Stipulated Penalties); (c) attorneys' fees and costs, except for reasonable attorneys' fees and costs necessarily related to obtaining access to the Site or securing both interim and permanent institutional controls as required by Section IX (Access and Institutional Controls); (d) costs of any response activities Performing Settling Defendants perform that are not required under, or approved by EPA pursuant to, this Consent Decree; (e) costs related to Performing Settling Defendants' litigation, settlement, development of potential contribution claims or identification of defendants; (f) internal costs of Performing Settling Defendants, including but not limited to, salaries, travel, or in-kind services, except for those costs that represent the work of employees of Performing Settling Defendants directly performing the Work; (g) any costs incurred by Performing Settling Defendants prior to the Effective Date, except for costs incurred in the performance of milestone numbers 1 and 2, as set forth in Paragraph 62; or (h) any costs incurred by Performing Settling Defendants pursuant to Section XX (Dispute Resolution).

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65. Termination of Disbursements from the Special Account. EPA's obligation to disburse funds from the Beede Waste Oil Superfund Site Disbursement Special Account under this Consent Decree shall terminate upon EPA's determination that Performing Settling Defendants: (a) have knowingly submitted a materially false or misleading Cost Summary and Certification; (b) have submitted a materially inaccurate or incomplete Cost Summary and Certification, and have failed to correct the materially inaccurate or incomplete Cost Summary and Certification within 20 days after being notified of, and given the opportunity to cure, the deficiency; or (c) failed to submit a Cost Summary and Certification as required by Paragraph 63 within 20 days (or such longer period as EPA agrees) after being notified that EPA intends to terminate its obligation to make disbursements pursuant to this Section because of Performing Settling Defendants' failure to submit the Cost Summary and Certification as required by Paragraph 63. EPA's obligation to disburse funds from the Beede Waste Oil Superfund Site Disbursement Special Account shall also terminate upon EPA's assumption of performance of any portion of the Work pursuant to Paragraph 100, when such assumption of performance of the Work is not challenged by Performing Settling Defendants or, if challenged, is upheld under Section XX (Dispute Resolution). Performing Settling Defendants may dispute EPA's termination of special account disbursements under Section XX (Dispute Resolution).

66. Recapture of Special Account Disbursements. Upon termination of disbursements from the Beede Waste Oil Superfund Site Disbursement Special Account under Paragraph 65, if EPA has previously disbursed funds from the Beede Waste Oil Superfund Site Disbursement Special Account for activities specifically related to the reason for termination (e.g., discovery of a materially false or misleading submission after disbursement of funds based

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on that submission), EPA shall submit a bill to Performing Settling Defendants for those amounts already disbursed from the Beede Waste Oil Superfund Site Disbursement Special Account specifically related to the reason for termination, plus Interest on that amount covering the period from the date of disbursement of the funds by EPA to the date of repayment of the funds by Performing Settling Defendants. Within 20 days of receipt of EPA's bill, Performing Settling Defendants shall reimburse the Hazardous Substance Superfund for the total amount billed by a certified or cashier's check or checks made payable to "EPA Hazardous Substance Superfund," referencing the name and address of the party making payment, EPA Site/Spill Identification Number 011T, and DOJ Case Number 90-11-3-07039/9. Performing Settling Defendants shall send the check(s) to:

EPA Superfund,
Superfund Accounting, Region I
Beede Superfund Site (ID #011T)
P.O. Box 360197M, Pittsburgh, PA 15251

At the time of payment, Performing Settling Defendants shall send notice that payment has been made to the United States, to EPA, and to the Regional Financial Management Officer, in accordance with Section XXVIII (Notices and Submissions). Upon receipt of payment, EPA may deposit all or any portion thereof in the Beede Waste Oil Superfund Site Special Account, the Beede Waste Oil Superfund Site Disbursement Special Account, or the Hazardous Substance Superfund. The determination of where to deposit or how to use the funds shall not be subject to challenge by Performing Settling Defendants pursuant to the dispute resolution provisions of this Consent Decree or in any other forum. Performing Settling Defendants may dispute EPA's determination as to recapture of funds pursuant to Section XX (Dispute Resolution).

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67. Balance of Special Account Funds. After EPA issues its written Certification of Completion of the Remedial Action pursuant to this Consent Decree, and after EPA completes all disbursement to Performing Settling Defendants in accordance with this Section, if any funds remain in the Beede Waste Oil Superfund Site Disbursement Special Account, EPA may transfer such funds to the Beede Waste Oil Superfund Site Special Account or to the Hazardous Substance Superfund. Any transfer of funds to the Beede Waste Oil Superfund Site Special Account or the Hazardous Substance Superfund shall not be subject to challenge by Performing Settling Defendants pursuant to the dispute resolution provisions of this Consent Decree or in any other forum.

XVIII. INDEMNIFICATION AND INSURANCE

68. Performing Settling Defendants' Indemnification of the United States and the State of New Hampshire.

a. The United States and the State do not assume any liability by entering into this agreement or by virtue of any designation of Performing Settling Defendants as EPA's authorized representatives under Section 104(e) of CERCLA. Performing Settling Defendants shall indemnify, save and hold harmless the United States (with the exception of the Settling Federal Agencies), the State, and their officials, agents, employees, contractors, subcontractors, or representatives for or from any and all claims or causes of action arising from, or on account of, negligent or other wrongful acts or omissions of Performing Settling Defendants, their officers, directors, employees, agents, contractors, subcontractors, and any persons acting on their behalf or under their control, in carrying out activities pursuant to this Consent Decree,

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including, but not limited to, any claims arising from any designation of Performing Settling Defendants as EPA's authorized representatives under Section 104(e) of CERCLA. Further, the Performing Settling Defendants agree to pay the United States (with the exception of the Settling Federal Agencies) and the State all costs they incur including, but not limited to, attorneys' fees and other expenses of litigation and settlement arising from, or on account of, claims made against the United States or the State based on negligent or other wrongful acts or omissions of Performing Settling Defendants, their officers, directors, employees, agents, contractors, subcontractors, and any persons acting on their behalf or under their control, in carrying out activities pursuant to this Consent Decree. Neither the United States nor the State shall be held out as a party to any contract entered into by or on behalf of Performing Settling Defendants in carrying out activities pursuant to this Consent Decree. Neither the Performing Settling Defendants nor any such contractor shall be considered an agent of the United States or the State.

b. The United States and the State shall give Performing Settling Defendants notice of any claim for which the United States or the State plans to seek indemnification pursuant to Paragraph 68, and shall consult with Performing Settling Defendants prior to settling such claim.

69. Performing Settling Defendants waive all claims against the United States and the State for damages or reimbursement or for set-off of any payments made or to be made to the United States or the State, arising from or on account of any contract, agreement, or arrangement between any one or more of Performing Settling Defendants and any person for performance of

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Work on or relating to the Site, including, but not limited to, claims on account of construction delays. In addition, Performing Settling Defendants shall indemnify and hold harmless the United States and the State with respect to any and all claims for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between any one or more of Performing Settling Defendants and any person for performance of Work on or relating to the Site, including, but not limited to, claims on account of construction delays.

70. No later than 15 days before commencing any on-site Work, Performing Settling Defendants shall secure, and shall maintain until the first anniversary of EPA's Certification of Completion of the Remedial Action pursuant to Subparagraph 50.b of Section XIV (Certification of Completion) comprehensive general liability insurance with limits of 5 million dollars, combined single limit, and automobile liability insurance with limits of 5 million dollars, combined single limit, naming the United States and the State as additional insures. In addition, for the duration of this Consent Decree, Performing Settling Defendants shall satisfy, or shall ensure that their contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of worker's compensation insurance for all persons performing the Work on behalf of Performing Settling Defendants in furtherance of this Consent Decree. Prior to commencement of the Work under this Consent Decree, Performing Settling Defendants shall provide to EPA and the State certificates of such insurance and a copy of each insurance policy. Performing Settling Defendants shall resubmit such certificates and copies of policies each year on the anniversary of the Effective Date. If Performing Settling Defendants demonstrate by evidence satisfactory to EPA and the State that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering the same risks but in a lesser

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amount, then, with respect to that contractor or subcontractor, Performing Settling Defendants need provide only that portion of the insurance described above which is not maintained by the contractor or subcontractor.

XIX. FORCE MAJEURE

71. “Force majeure,” for purposes of this Consent Decree, is defined as any event arising from causes beyond the control of the Performing Settling Defendants, of any entity controlled by Performing Settling Defendants, or of Performing Settling Defendants' contractors, that delays or prevents the performance of any obligation under this Consent Decree despite Performing Settling Defendants' best efforts to fulfill the obligation. The requirement that the Performing Settling Defendants exercise “best efforts to fulfill the obligation” includes using best efforts to anticipate any potential force majeure event and best efforts to address the effects of any potential force majeure event (1) as it is occurring and (2) following the potential force majeure event, such that the delay is minimized to the greatest extent possible. “Force Majeure” does not include financial inability to complete the Work or a failure to attain the Performance Standards.

72. If any event occurs or has occurred that may delay the performance of any obligation under this Consent Decree, whether or not caused by a force majeure event, the Performing Settling Defendants shall notify orally EPA's Project Coordinator or, in his or her absence, EPA's Alternate Project Coordinator or, in the event both of EPA's designated representatives are unavailable, the Director of the Office of Site Remediation and Restoration, EPA Region 1, within 24 hours of when Performing Settling Defendants first knew that the event

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might cause a delay. Within 5 days thereafter, Performing Settling Defendants shall provide in writing to EPA and the State an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; the Performing Settling Defendants' rationale for attributing such delay to a force majeure event if they intend to assert such a claim; and a statement as to whether, in the opinion of the Performing Settling Defendants, such event may cause or contribute to an endangerment to public health, welfare or the environment. The Performing Settling Defendants shall include with any notice all available documentation supporting their claim that the delay was attributable to a force majeure. Failure to comply with the above requirements shall preclude Performing Settling Defendants from asserting any claim of force majeure for that event for the period of time of such failure to comply, and for any additional delay caused by such failure. Performing Settling Defendants shall be deemed to know of any circumstance of which Performing Settling Defendants, any entity controlled by Performing Settling Defendants, or Performing Settling Defendants' contractors knew or should have known.

73. If EPA, after a reasonable opportunity for review and comment by the State, agrees that the delay or anticipated delay is attributable to a force majeure event, the time for performance of the obligations under this Consent Decree that are affected by the force majeure event will be extended by EPA, after a reasonable opportunity for review and comment by the State, for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the force majeure event shall not, of itself, extend the time for performance of any other obligation. If EPA, after a reasonable opportunity for review

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and comment by the State, does not agree that the delay or anticipated delay has been or will be caused by a force majeure event, EPA will notify the Performing Settling Defendants in writing of its decision. If EPA, after a reasonable opportunity for review and comment by the State, agrees that the delay is attributable to a force majeure event, EPA will notify the Performing Settling Defendants in writing of the length of the extension, if any, for performance of the obligations affected by the force majeure event.

74. If the Performing Settling Defendants elect to invoke the dispute resolution procedures set forth in Section XX (Dispute Resolution), they shall do so no later than 15 days after receipt of EPA's notice. In any such proceeding, Performing Settling Defendants shall have the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by a force majeure event, that the duration of the delay or the extension sought was or will be warranted under the circumstances, that best efforts were exercised to avoid and mitigate the effects of the delay, and that Performing Settling Defendants complied with the requirements of Paragraphs 71 and 72, above. If Performing Settling Defendants carry this burden, the delay at issue shall be deemed not to be a violation by Performing Settling Defendants of the affected obligation of this Consent Decree identified to EPA and the Court.

XX. DISPUTE RESOLUTION

75. Unless otherwise expressly provided for in this Consent Decree, the dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes between EPA and Performing Settling Defendants or between the State and Performing Settling

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Defendants arising under or with respect to this Consent Decree. The procedures for resolution of disputes which involve EPA are governed by Paragraph 75 to 80. The State may participate in such dispute resolution proceedings to the extent specified in Paragraphs 75 to 80. Disputes exclusively between the State and Performing Settling Defendants are governed by Paragraph 81; nothing in this Section shall be construed to obligate the State to be a party to or share in the cost of any dispute resolution, except where the State may determine to do so as provided in Paragraph 76.c . However, the procedures set forth in this Section shall not apply to actions by the United States or the State to enforce obligations of the Performing Settling Defendants that have not been disputed in accordance with this Section.

76. Any dispute which arises under or with respect to this Consent Decree shall in the first instance be the subject of informal negotiations between the parties to the dispute. The period for informal negotiations shall not exceed 20 days from the time the dispute arises, unless it is modified by written agreement of the parties to the dispute. The dispute shall be considered to have arisen when one party sends the other parties a written Notice of Dispute.

a. Initiation of ADR. At any time during the informal dispute resolution period, either Performing Settling Defendant(s) or EPA may propose the use of a mediator to assist in resolving the dispute. In addition, upon request of the Performing Settling Defendant(s) or EPA, a meeting shall take place between the parties to the dispute with the assistance of a mediator for the purpose of resolving the dispute and/or determining whether to undertake further mediated discussions. This initial meeting shall take place within ten business days of the party's request, unless Performing Settling Defendant(s) and EPA agree to extend that

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period. Upon written agreement of Performing Settling Defendant(s) and EPA, the period for informal dispute resolution may be extended for the purpose of mediating the dispute. Formal dispute resolution, as governed by the procedures set forth in Paragraph 78 and 79, shall commence immediately upon the termination of the informal dispute resolution period.

b. Decision to Continue ADR. After the initial mediated meeting, the decision to continue the mediation shall be in the sole discretion of each party.

c. Costs of ADR. The parties agree that they will share equitably the costs of mediation, subject to the availability of EPA or NH DES funds for this purpose. EPA's or NH DES' ability to share the costs of mediation will be determined by EPA or NH DES in their sole discretion and shall not be subject to dispute resolution or judicial review. If EPA or NH DES determines that no mediation funding is available, Performing Settling Defendant(s) shall have the option to cover all of the mediation costs or to request the services of a trained mediator from EPA's in-house ADR program or any other dispute resolution professional whose services may be available to the parties at no cost.

d. Mediator List. The parties agree that they may, after the Consent Decree is signed by Performing Settling Defendants, prepare a list of mediators agreeable to the parties from which a mediator may be selected. This list shall not preclude any party from proposing to add a mediator or mediators to the list or from proposing a different mediator for a specific dispute.

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e. Confidentiality. The parties agree that participants in mediated discussions pursuant to this Section shall execute a confidentiality agreement in the form attached as Appendix L to this Decree.

77. Statements of Position.

a. In the event that the parties cannot resolve a dispute by informal negotiations under the preceding Paragraph, then the position advanced by EPA shall be considered binding unless, within 10 days after the conclusion of the informal negotiation period, Performing Settling Defendants invoke the formal dispute resolution procedures of this Section by serving on the United States a written Statement of Position on the matter in dispute, including, but not limited to, any factual data, analysis or opinion supporting that position and any supporting documentation relied upon by the Performing Settling Defendants. The Statement of Position shall specify the Performing Settling Defendants' position as to whether formal dispute resolution should proceed under Paragraph 78 or Paragraph 79.

b. Within 14 days after receipt of Performing Settling Defendants' Statement of Position, EPA, after reasonable opportunity for review and comment by the State, will serve on Performing Settling Defendants its Statement of Position, including, but not limited to, any factual data, analysis, or opinion supporting that position and all supporting documentation relied upon by EPA. The State, after reasonable opportunity for review and comment by EPA, may also serve a Statement of Position within the fourteen-day time limit set forth above in this

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Paragraph. EPA's Statement of Position shall include a statement as to whether formal dispute resolution should proceed under Paragraph 78 or 79. Within 14 days after receipt of EPA's Statement of Position, Performing Settling Defendants may submit a Reply.

c. If there is disagreement between EPA and the Performing Settling Defendants as to whether dispute resolution should proceed under Paragraph 78 or 79, the parties to the dispute shall follow the procedures set forth in the paragraph determined by EPA to be applicable. However, if the Performing Settling Defendants ultimately appeal to the Court to resolve the dispute, the Court shall determine which paragraph is applicable in accordance with the standards of applicability set forth in Paragraphs 78 and 79.

78. Formal dispute resolution for disputes pertaining to the selection or adequacy of any response action and all other disputes that are accorded review on the administrative record under applicable principles of administrative law shall be conducted pursuant to the procedures set forth in this Paragraph. For purposes of this Paragraph, the adequacy of any response action includes, without limitation: (1) the adequacy or appropriateness of plans, procedures to implement plans, or any other items requiring approval by EPA under this Consent Decree; and (2) the adequacy of the performance of response actions taken pursuant to this Consent Decree. Nothing in this Consent Decree shall be construed to allow any dispute by Performing Settling Defendants regarding the validity of the ROD's provisions.

a. An administrative record of the dispute shall be maintained by EPA and shall contain all statements of position, including supporting documentation, submitted pursuant

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to this Section. Where appropriate, EPA may allow submission of supplemental statements of position by the Performing Settling Defendants, EPA or the State.

b. The Director of the Office of Site Remediation & Restoration, EPA Region 1, will issue, after reasonable opportunity for review and comment by the State, a final administrative decision resolving the dispute based on the administrative record described in Paragraph 78.a. This decision shall be binding upon the Performing Settling Defendants, subject only to the right to seek judicial review pursuant to Paragraph 78.c and d.

c. Any administrative decision made by EPA pursuant to Paragraph 78.b. shall be reviewable by this Court, provided that a motion for judicial review of the decision is filed by the Performing Settling Defendants with the Court and served on all Parties within 30 days of receipt of EPA's decision. The motion shall include a description of the matter in dispute, the efforts made by the parties to resolve it, the relief requested, and the schedule, if any, within which the dispute must be resolved to ensure orderly implementation of this Consent Decree. The United States may file a response to Performing Settling Defendants' motion.

d. In proceedings on any dispute governed by this Paragraph, Performing Settling Defendants shall have the burden of demonstrating that the decision of the Director of the Office of Site Remediation & Restoration is arbitrary and capricious or otherwise not in accordance with law. Judicial review of EPA's decision shall be on the administrative record compiled pursuant to Paragraph 78.a.

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79. Formal dispute resolution for disputes that neither pertain to the selection or adequacy of any response action nor are otherwise accorded review on the administrative record under applicable principles of administrative law, shall be governed by this Paragraph.

a. Following receipt of Performing Settling Defendants' Statement of Position submitted pursuant to Paragraph 77, the Director of the Office of Site Remediation & Restoration, EPA Region 1, after reasonable opportunity for review and comment by the State, will issue a final decision resolving the dispute. The decision of the Director of the Office of Site Remediation & Restoration shall be binding on the Performing Settling Defendants unless, within 30 days of receipt of the decision, the Performing Settling Defendants file with the Court and serve on the parties a motion for judicial review of the decision setting forth the matter in dispute, the efforts made by the parties to resolve it, the relief requested, and the schedule, if any, within which the dispute must be resolved to ensure orderly implementation of the Consent Decree. The United States may file a response to Performing Settling Defendants' motion.

b. Notwithstanding Paragraph M of Section I (Background) of this Consent Decree, judicial review of any dispute governed by this Paragraph shall be governed by applicable principles of law.

80. The invocation of formal dispute resolution procedures under this Section shall not extend, postpone or affect in any way any obligation of the Performing Settling Defendants under this Consent Decree, not directly in dispute, unless EPA, after reasonable opportunity for review and comment by the State, or the Court agrees otherwise. Stipulated penalties with respect to the disputed matter shall continue to accrue but payment shall be stayed pending

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resolution of the dispute as provided in Paragraph 90. Notwithstanding the stay of payment, stipulated penalties shall accrue from the first day of noncompliance with any applicable provision of this Consent Decree. In the event that the Performing Settling Defendants do not prevail on the disputed issue, stipulated penalties shall be assessed and paid as provided in Section XXI (Stipulated Penalties).

81. Disputes solely between the State and Performing Settling Defendants.

Disputes arising under the Consent Decree between the State and Performing Settling Defendants that relate to State Future Response Costs owed to the State, or assessment of stipulated penalties by the State, shall be governed in the following manner. The procedures for resolving the disputes mentioned in this Paragraph shall be the same as provided for in Paragraphs 75 - 80, except that each reference to EPA shall read as a reference to NHDES, each reference to the Director of the Office of Site Remediation & Restoration, EPA Region 1, shall be read as a reference to the Director of the Waste Management Division, NHDES, and each reference to the United States shall be read as a reference to the State.

XXI. STIPULATED PENALTIES

82. Performing Settling Defendants shall be liable for stipulated penalties in the amounts set forth in Paragraphs 83 and 84 to the United States for failure to comply with the requirements of this Consent Decree specified below, unless excused under Section XIX (Force Majeure). "Compliance" by Performing Settling Defendants shall include completion of the activities under this Consent Decree or any work plan or other plan approved under this Consent

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Decree identified below in accordance with all applicable requirements of law, this Consent Decree, the SOW, and any plans or other documents approved by EPA pursuant to this Consent Decree and within the specified time schedules established by and approved under this Consent Decree.

83. Stipulated Penalty Amounts - Work.

a. The following stipulated penalties shall accrue per violation per day for any noncompliance identified in Subparagraph 83.b:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$3,000	1st through 14th day
\$6,250	15th through 30th day
\$10,000	31st day and beyond

b. Compliance Milestones.

(1) Remedial Design and Remedial Action Work Plans - failure to submit a timely or adequate draft and revised final drafts of any such plans in accordance with the SOW;

(2) Remedial Design and Remedial Action Schedules - failure to perform RD/RA activities in an adequate manner, within the approved schedule outlined in the

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final RD/RA work plans, or in compliance with the SOW;

(3) Operation, Maintenance and Monitoring

a. failure to perform timely and adequate monitoring in
accordance

with the approved Operations and Maintenance Plan

b. failure to submit timely and adequate monitoring reports in
accordance with the approved Operations and Maintenance Plan;

c. failure to perform maintenance on any component of the
remedial action on the required schedule and in accordance with
approved

work plans or EPA requests.

84. Stipulated Penalty Amounts - Reports.

a. The following stipulated penalties shall accrue per violation per day for
failure to submit timely reports or for the submission of deficient reports or other written

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documents pursuant to Section V.A., IV.A., and Attachment A of the SOW and Paragraph 11, Paragraph 12, and Section XXI (Stipulated Penalties) of this Consent Decree:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$1,250	1st through 14th day
\$2,000	15th through 30th day
\$3000	31st day and beyond

85. In the event that EPA assumes performance of a portion or all of the Work pursuant to Paragraph 100 of Section XXII (Covenants by Plaintiffs), Performing Settling Defendants shall be liable for a stipulated penalty in the amount of \$ 1 million.

86. All penalties shall begin to accrue on the day after the complete performance is due or the day a violation occurs, and shall continue to accrue through the final day of the correction of the noncompliance or completion of the activity. However, stipulated penalties shall not accrue: (1) with respect to a deficient submission under Section XI (EPA Approval of Plans and Other Submissions), during the period, if any, beginning on the 31st day after EPA's receipt of such submission until the date that EPA notifies Performing Settling Defendants of any deficiency; (2) with respect to a decision by the Director of the Office of Site Remediation and Restoration , EPA Region 1, under Paragraph 78.b or 79.a of Section XX (Dispute Resolution), during the period, if any, beginning on the 21st day after the date that Performing Settling Defendants' reply to EPA's Statement of Position is received until the date that the

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Director issues a final decision regarding such dispute; or (3) with respect to judicial review by this Court of any dispute under Section XX (Dispute Resolution), during the period, if any, beginning on the 31st day after the Court's receipt of the final submission regarding the dispute until the date that the Court issues a final decision regarding such dispute. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Consent Decree.

87. Following EPA's determination, that Performing Settling Defendants have failed to comply with a requirement of this Consent Decree, EPA may give Performing Settling Defendants written notification of the same and describe the noncompliance. EPA may send the Performing Settling Defendants a written demand for the payment of the penalties. However, penalties shall accrue as provided in the preceding Paragraph regardless of whether EPA has notified the Performing Settling Defendants of a violation.

88. All penalties accruing under this Section shall be due and payable to the United States within 30 days of the Performing Settling Defendants' receipt from EPA of a demand for payment of the penalties, unless Performing Settling Defendants invoke the Dispute Resolution procedures under Section XX (Dispute Resolution). All payments to the United States under this Section shall be paid by certified or cashier's check(s) made payable to "EPA Hazardous Substances Superfund," shall be mailed to EPA Superfund, Superfund Accounting, Region I, Beede Superfund Site (ID #011T), P.O. Box 360197M, Pittsburgh, PA 1525, shall indicate that the payment is for stipulated penalties, and shall reference the EPA Region and Site/Spill ID # 011T, the DOJ Case Number 90-11-3-07039/9, and the name and address of the party making

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payment. Copies of check(s) paid pursuant to this Section, and any accompanying transmittal letter(s), shall be sent to the United States and to the State as provided in Section XXVIII (Notices and Submissions).

89. The payment of penalties shall not alter in any way Performing Settling Defendants' obligation to complete the performance of the Work required under this Consent Decree.

90. Penalties shall continue to accrue as provided in Paragraph 86 during any dispute resolution period, but need not be paid until the following:

a. If the dispute is resolved by agreement or by a decision of EPA that is not appealed to this Court, accrued penalties determined to be owing shall be paid to EPA within 15 days of the agreement or the receipt of EPA's decision or order;

b. If the dispute is appealed to this Court and the United States prevails in whole or in part, Performing Settling Defendants shall pay all accrued penalties determined by the Court to be owed to EPA within 60 days of receipt of the Court's decision or order, except as provided in Subparagraph c below;

c. If the District Court's decision is appealed by any Party, Performing Settling Defendants shall pay all accrued penalties determined by the District Court to be owing to the United States into an interest-bearing escrow account within 60 days of receipt of the Court's decision or order. Penalties shall be paid into this account as they continue to accrue, at least every 60 days. Within 15 days of receipt of the final appellate court decision, the escrow

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agent shall pay the balance of the account to EPA or to Performing Settling Defendants to the extent that they prevail.

91. If Performing Settling Defendants fail to pay stipulated penalties when due, the United States may institute proceedings to collect the penalties, as well as interest. Performing Settling Defendants shall pay Interest on the unpaid balance, which shall begin to accrue on the date of demand made pursuant to Paragraph 88.

92. Nothing in this Consent Decree shall be construed as prohibiting, altering, or in any way limiting the ability of the United States to seek any other remedies or sanctions available by virtue of Performing Settling Defendants' violation of this Decree or of the statutes and regulations upon which it is based, including, but not limited to, penalties pursuant to Section 122(l) of CERCLA, provided, however, that the United States shall not seek civil penalties pursuant to Section 122(l) of CERCLA for any violation for which a stipulated penalty is provided herein, except in the case of a willful violation of the Consent Decree.

93. Notwithstanding any other provision of this Section, the United States may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this Consent Decree.

XXII. COVENANTS BY PLAINTIFFS

94. In consideration of the actions that will be performed and the payments that will be made by the Performing Settling Defendants under the terms of the Consent Decree, and except as specifically provided in Paragraphs 96, 97, and 99 of this Section, the United States

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and the State covenant not to sue or to take administrative action against Performing Settling Defendants pursuant to Sections 106 and 107(a) of CERCLA and Section 7003 of RCRA, or with respect to the State, pursuant to New Hampshire Revised Statutes Annotated 147-A:9 or 147-B:10, relating to the Site. Except with respect to future liability, these covenants not to sue shall take effect 45 (forty-five) days after entry of the Consent Decree, and upon receipt by the State of the payments required by Paragraph 54 of Section XVI (Payments for Response Costs). With respect to future liability, these covenants not to sue shall take effect upon Certification of Completion of Remedial Action by EPA pursuant to Paragraph 50.b of Section XIV (Certification of Completion). All covenants not to sue by Plaintiffs are conditioned upon the satisfactory performance by Performing Settling Defendants of their obligations under this Consent Decree. All covenants not to sue by Plaintiffs extend only to the Performing Settling Defendants and do not extend to any other person.

95. In consideration of the payments that will be made by the Settling Federal Agencies under the terms of the Consent Decree, and except as specifically provided in Paragraphs 96, 97, and 99 of this Section, EPA covenants not to take administrative action against the Settling Federal Agencies pursuant to Sections 106 and 107(a) of CERCLA and Section 7003 of RCRA relating to the Site, and the State covenants not to sue pursuant to Section 107(a) of CERCLA and NH RSA 147-A:9 or 147-B:10 relating to the Site. EPA's and the State's covenants shall take effect upon receipt of the payments made pursuant to Paragraph 55 of Section XVI (Payments for Response Costs by Performing Settling Defendants and Settling Federal Agencies). EPA's and the State's covenants are conditioned upon the satisfactory

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performance by Settling Federal Agencies of their obligation under this Consent Decree. These covenants extend only to the Settling Federal Agencies and do not extend to any other person.

96. United States' Pre-certification Reservations. Notwithstanding any other provision of this Consent Decree, the United States reserves, and this Consent Decree is without prejudice to, the right to institute proceedings in this action or in a new action, or to issue an administrative order seeking to compel Performing Settling Defendants, and EPA reserves the right to issue an administrative order seeking to compel the Settling Federal Agencies,

- a. to perform further response actions relating to the Site, or
- b. to reimburse the United States for additional costs of response if, prior to

Certification of Completion of the Remedial Action:

- (1) conditions at the Site, previously unknown to EPA, are discovered,

or

- (2) information, previously unknown to EPA, is received, in whole or

in part,

and EPA determines that these previously unknown conditions or information together with any other relevant information indicates that the Remedial Action is not protective of human health or the environment.

97. United States' Post-certification Reservations. Notwithstanding any other provision of this Consent Decree, the United States reserves, and this Consent Decree is without

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prejudice to, the right to institute proceedings in this action or in a new action, or to issue an administrative order seeking to compel Performing Settling Defendants, and EPA reserves the right to issue an administrative order seeking to compel the Settling Federal Agencies,

- a. to perform further response actions relating to the Site, or
- b. to reimburse the United States for additional costs of response if,

subsequent to Certification of Completion of the Remedial Action:

- (1) conditions at the Site, previously unknown to EPA, are discovered,

or

- (2) information, previously unknown to EPA, is received, in whole or

in part,

and EPA determines that these previously unknown conditions or this information together with other relevant information indicate that the Remedial Action is not protective of human health or the environment.

98. For purposes of Paragraph 96, the information and the conditions known to EPA shall include only that information and those conditions known to EPA as of the date the ROD was signed and set forth in the Record of Decision for the Site, the administrative record supporting the Record of Decision, the EPA Action Memorandum for the Site Non-Time Critical Removal Action, the Administrative Record for such Action Memorandum, and reports submitted to the public by EPA pursuant to such Action Memorandum. For purposes of

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Paragraph 97, the information and the conditions known to EPA shall include only that information and those conditions known to EPA as of the date of Certification of Completion of the Remedial Action and set forth in the Record of Decision, the administrative record supporting the Record of Decision, the post-ROD administrative record, the EPA Action Memorandum for the Site Non-Time Critical Removal Action, the Administrative Record for such Action Memorandum, and reports submitted to the public by EPA pursuant to such Action Memorandum, or in any information received by EPA pursuant to the requirements of this Consent Decree prior to Certification of Completion of the Remedial Action.

99. General reservations of rights. The United States and the State reserve, and this Consent Decree is without prejudice to, all rights against Performing Settling Defendants, and EPA and the federal natural resource trustees and the State reserve, and this Consent Decree is without prejudice to, all rights against the Settling Federal Agencies, with respect to all matters not expressly included within Plaintiffs' covenants. Notwithstanding any other provision of this Consent Decree, the United States and the State reserve all rights against Performing Settling Defendants, and EPA and the federal natural resource trustees and the State reserve, and this Consent Decree is without prejudice to, all rights against the Settling Federal Agencies, with respect to all other matters included but not limited to, the following:

- a. claims based on a failure by Performing Settling Defendants or the Settling Federal Agencies, to meet a requirement of this Consent Decree;
- b. liability arising from the past, present, or future disposal, release, or threat of release of Waste Material outside of the Site;

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c. liability based upon the Performing Settling Defendants' ownership or operation of the Site, or upon the Performing Settling Defendants' transportation, treatment, storage, or disposal, or the arrangement for the transportation, treatment, storage, or disposal of Waste Material at or in connection with the Site, other than as provided in the ROD, the Work, or otherwise ordered by EPA, after signature of this Consent Decree by the Performing Settling Defendants;

d. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;

e. criminal liability;

f. liability for violations of federal or state law which occur during or after implementation of the Remedial Action; and

g. liability, prior to Certification of Completion of the Remedial Action, for additional response actions that EPA determines are necessary to achieve Performance Standards, but that cannot be required pursuant to Paragraph 14 (Modification of the SOW or Related Work Plans).

100. Work Takeover In the event EPA determines that Performing Settling Defendants have ceased implementation of any portion of the Work, are seriously or repeatedly deficient or late in their performance of the Work, or are implementing the Work in a manner which may cause an endangerment to human health or the environment, EPA may assume the performance of all or any portions of the Work as EPA determines necessary. Performing

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Settling Defendants may invoke the procedures set forth in Section XX (Dispute Resolution), Paragraph 78, to dispute EPA's determination that takeover of the Work is warranted under this Paragraph. Costs incurred by the United States in performing the Work pursuant to this Paragraph shall be considered U.S. Future Response Costs that Performing Settling Defendants shall pay pursuant to Section XVI (Payment for Response Costs).

101. Notwithstanding any other provision of this Consent Decree, the United States and the State retain all authority and reserve all rights to take any and all response actions authorized by law.

XXIII. COVENANTS BY PERFORMING SETTTLING DEFENDANTS AND SETTTLING FEDERAL AGENCIES

102. Covenant Not to Sue by Performing Settling Defendants. Subject to the reservations in Paragraph 104, Performing Settling Defendants hereby covenant not to sue and agree not to assert any claims or causes of action against the United States or the State with respect to the Site or this Consent Decree, including, but not limited to:

- a. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund (established pursuant to the Internal Revenue Code, 26 U.S.C. § 9507) through CERCLA Sections 106(b)(2), 107, 111, 112, 113 or any other provision of law;
- b. any claims against the United States, including any department, agency or instrumentality of the United States under CERCLA Sections 107 or 113 related to the Site;

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c. any claims arising out of response actions at or in connection with the Site, including any claim under the United States Constitution, the State Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law;

d. any direct or indirect claim for disbursement from the Beede Waste Oil Superfund Site Special Account or Beede Waste Oil Superfund Site Disbursement Special Account (established pursuant to this Consent Decree), except as provided in Section XVII (Disbursement of Special Account Funds); or

e. any claims against the State, or any department, agency, or instrumentality thereof, including but not limited to any direct or indirect claim for reimbursement from the Oil Discharge and Disposal Fund established under NH RSA 146-D, the Fuel Oil Discharge Cleanup Fund established under NH RSA 146-E, the Motor Oil Discharge Cleanup Fund established under NH RSA 146-F, or the Gasoline Remediation and Elimination of Ethers Fund established under NH RSA 146-G, or any other provision of law.

Except as provided in Paragraph 106 (Waiver of Claims Against *De Micromis* Parties), Paragraph 107 (Waiver of Claims Against *De Minimis* Parties), and Paragraph 120 (Waiver of Claim-Splitting Defenses), these covenants not to sue shall not apply in the event that the United States or the State brings a cause of action or issues an order pursuant to the reservations set forth in Paragraphs 96, 97 or 99.b - 99.d or 99.g, but only to the extent that Performing Settling Defendants' claims arise from the same response action, response costs, or damages that the United States or the State is seeking pursuant to the applicable reservation.

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103. Covenant by Settling Federal Agencies. Settling Federal Agencies hereby agree not to assert any direct or indirect claim for reimbursement from the Hazardous Substances Superfund (established pursuant to the Internal Revenue Code, 26 U.S.C. § 9507) through CERCLA Sections 106(b)(2), 107, 111, 112, 113; any claims against the State, or any department, agency, or instrumentality thereof, including but not limited to any direct or indirect claim for reimbursement from the Oil Discharge and Disposal Fund established under NH RSA 146-D, the Fuel Oil Discharge Cleanup Fund established under NH RSA 146-E, the Motor Oil Discharge Cleanup Fund established under NH RSA 146-F, or the Gasoline Remediation and Elimination of Ethers Fund established under NH RSA 146-G, or any other provision of law with respect to the Site or this Consent Decree. This covenant does not preclude demand for reimbursement from the Superfund of costs incurred by a Settling Federal Agency in the performance of its duties (other than pursuant to this Consent Decree) as lead or support agency under the National Contingency Plan (40 C.F.R. Part 300).

104. The Settling Defendants reserve, and this Consent Decree is without prejudice to:

(a) claims against the United States, subject to the provisions of Chapter 171 of Title 28 of the United States Code, for money damages for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the United States while acting within the scope of his office or employment under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred. However, any such claim shall not include a claim for any damages caused, in whole or in part, by the act or omission of any person, including any contractor, who is not a federal employee as that term is defined in 28 U.S.C. § 2671; nor shall

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any such claim include a claim based on EPA's selection of response actions, or the oversight or approval of the Settling Defendants' plans or activities. The foregoing applies only to claims which are brought pursuant to any statute other than CERCLA and for which the waiver of sovereign immunity is found in a statute other than CERCLA; and (b) contribution claims against the Settling Federal Agencies in the event any claim is asserted by the United States or the State against the Settling Defendants under the authority of or under Paragraphs 96, 97, 99.b - 99.d or 99.f of Section XXII (Covenants by Plaintiffs), but only to the same extent and for the same matters, transactions, or occurrences as are raised in the claim of the United States or the State against Settling Defendants.

105. Nothing in this Consent Decree shall be deemed to constitute preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

106. Settling Defendants agree not to assert any claims and to waive all claims or causes of action that they may have for all matters relating to the Site, including for contribution, against any person where the person's liability to Settling Defendants with respect to the Site is based solely on having arranged for disposal or treatment, or for transport for disposal or treatment, of hazardous substances at the Site, or having accepted for transport for disposal or treatment of hazardous substances at the Site, if the materials contributed by such person to the Site containing hazardous substances did not exceed the greater of (i) 0.002% of the total volume of waste at the Site, or (ii) 275 gallons of liquid materials or 200 pounds of solid materials. This waiver shall not apply to any claim or cause of action against any person meeting the above

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criteria if EPA has determined that the materials contributed to the Site by such person contributed or could contribute significantly to the costs of response at the Site. This waiver also shall not apply with respect to any defense, claim, or cause of action that a Settling Defendant may have against any person if such person asserts a claim or cause of action relating to the Site against such Settling Defendant.

107. Settling Defendants agree not to assert any claims and to waive all claims or causes of action that they may have for all matters relating to the Site, including for contribution, against any person that has entered into a final CERCLA § 122(g) *de minimis* settlement with EPA with respect to the Site as of the Effective Date. This waiver shall not apply with respect to any defense, claim, or cause of action that a Settling Defendant may have against any person if such person asserts a claim or cause of action relating to the Site against such Settling Defendant.

XXIV. DE MINIMIS SETTLEMENT PROVISIONS

108. Covenants By Plaintiffs.

a. In consideration of the payments that will be made by the De Minimis Settlers and under the terms of this Consent Decree, and except as specifically provided in Paragraphs 109, 110, 111 and 113 of this Section, the United States and the State covenant not to sue or to take administrative action against any of the De Minimis Settlers pursuant to Sections 106 and 107 of CERCLA, 42 USC §§ 9606 and 9607, and Section 7003 of the Resource Conservation and Recovery Act, 42 U.S.C. §6973, for U.S. and State Past, Interim, and Future

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Response Costs, and U.S. and State Oversight Costs relating to the Site; and the State covenants not to sue or to take administrative action against De Minimis Settlers pursuant to New Hampshire RSA 147-B:10, 147-A: 9 for State Past, Interim and Future Response Costs and State Oversight Costs relating to the Site. With respect to present and future liability, this covenant not to sue shall take effect for each De Minimis Settlor upon receipt of that De Minimis Settlor's payment as required by Paragraph 114 of this Consent Decree. With respect to each De Minimis Settlor, individually, this covenant not to sue is conditioned upon: a) the satisfactory performance by the De Minimis Settlor of all obligations under this Consent Decree; b) the veracity of the information provided to EPA by the De Minimis Settlor relating to the De Minimis Settlor's involvement with the Site; and c) with respect to each Settling ATP Defendant, individually, this covenant not to sue is also conditioned upon the veracity and completeness of the Financial Information provided to EPA by each Settling ATP Defendant. If the Financial Information submitted by any Settling ATP Defendant is subsequently determined by EPA to be false, or, in any material respect, inaccurate, that Settling ATP Defendant shall forfeit all payments made pursuant to this Consent Decree and this covenant not to sue and the contribution protection in Paragraph 115 shall be null and void. Such forfeiture shall not constitute liquidated damages and shall not in any way foreclose the United States' right to pursue any other causes of action arising from Settling ATP Defendant's false or materially inaccurate information. These covenants extend only to the De Minimis Settlers and Settling ATP Defendants and do not extend to any other person.

b. In consideration of the payment that will be made by the De Minimis Settling Federal Agency under the terms of this Consent Order, and except as specifically

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provided in Paragraphs 109, 110, 111 and 113 (Reservations of Rights by United States and the State), EPA covenants not to take administrative action against the De Minimis Settling Federal Agency pursuant to Sections 106 or 107 of CERCLA, 42 U.S.C. §§ 9606 or 9607, and Section 7003 of RCRA, 42 U.S.C. § 6973, relating to the Site; and the State covenants not to sue or to take administrative action against the De Minimis Settling Federal Agency pursuant to New Hampshire RSA 147-B:10, 147-A: 9, 485-A, and 485-C, or Section 107 of CERCLA, and for State Response Costs relating to the Site. With respect to present and future liability, this covenant not to sue shall take effect for the De Minimis Settling Federal Agency upon receipt of its payment as required by Paragraph 114 of this Consent Decree. With respect to the De Minimis Settling Federal Agency, individually, this covenant not to sue is conditioned upon: a) the satisfactory performance by the De Minimis Settling Federal Agency of all obligations under this Consent Decree; and b) the veracity of the information provided to EPA by the De Minimis Settling Federal Agency relating to its involvement with the Site. These covenants extend only to the De Minimis Settling Federal Agency and do not extend to any other person.

109. General Reservation of Rights as to the De Minimis Settling Federal Agency and the De Minimis Settlers. The United States and the State reserve, and this Consent Decree is without prejudice to, all rights against the De Minimis Settlers; and EPA and the federal natural resource trustees and the State reserve, and this Consent Decree is without prejudice to, all rights against the De Minimis Settling Federal Agency with respect to all matters not expressly included within the Covenants by Plaintiffs in Paragraph 108. Notwithstanding any other provision of this Consent Decree, the United States and the State reserve all rights against the De

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Minimis Settlers, and EPA and the federal natural resource trustees and the State reserve all rights against the De Minimis Settling Federal Agency with respect to:

- a. liability for failure to meet a requirement of this Consent Decree;
- b. criminal liability;
- c. Liability based upon the ownership or operation of the Site, or upon the transportation, treatment, storage, or disposal, or the arrangement for the transportation, treatment, storage, or disposal, of a hazardous substance, or a solid waste at or in connection with the Site, after the signature of this Consent Decree by the De Minimis Settling Federal Agency and the De Minimis Settlers.
- d. Liability for damages for injuries to, destruction of, or loss of natural resources, and for the cost of any natural resource damage assessments.

110. Nothing in this Consent Decree constitutes a covenant not to sue or to take action or otherwise limits the ability of the United States or the State to seek or obtain further relief from the De Minimis Settling Federal Agency or any of the De Minimis Settlers if information not currently known to the United States is discovered which indicates that the De Minimis Settling Federal Agency or any De Minimis Settler contributed Waste Material to the Site in such greater amounts or of such greater toxic or other hazardous effect such that the De Minimis Settling Federal Agency or the De Minimis Settler no longer qualifies as a de minimis party at the Site because such party contributed disproportionately to the cumulative toxic or other hazardous effects of the Waste Material at the Site. In such case, the covenant not to sue under

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this Section and the contribution protection afforded by this Section are null and void as to that De Minimis Settling Federal Agency or De Minimis Settlor. With respect to the Settling ATP Defendants, nothing in this Consent Decree constitutes a covenant not to sue or to take action or otherwise limits the ability of the United States or the State to seek or obtain further relief from the Settling ATP Defendants if the Financial Information provided by any such Settling ATP Defendant or the financial certification made by any such Settling ATP Defendant in Section XXIV (De Minimis Settlement Provisions) is false or, in any material respect, inaccurate. In such case, the covenants under this Section and the contribution protection afforded by this Section are null and void as to that Settling ATP Defendants.

111. Covenants by the De Minimis Settling Federal Agency and the De Minimis Settlers.

a. De Minimis Settlers hereby covenant not to sue and agree not to assert any claims or causes of action against the United States or the State with respect to the Site or this Consent Decree, including, but not limited to:

(1) any direct or indirect claim for reimbursement from the Hazardous Substance Superfund (established pursuant to the Internal Revenue Code, 26 U.S.C. § 9507) based on Sections 106(b)(2), 107, 111, 112, 113 of CERCLA, 42 U.S.C. § 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;

(2) any claim arising out of response actions at or in connection with the Site, including any claim under the United States Constitution, the Constitution of the

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State of New Hampshire, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law;

(3) any claim against the United States pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to the Site; and

(4) any claims against the State, or any department, agency or instrumentality thereof, including but not limited to any direct or indirect claim for reimbursement from the Oil Discharge and Disposal Fund established under NH RSA 146-D, the Fuel Oil Discharge Cleanup Fund established under NH RSA 146-E, the Motor Oil Discharge Cleanup Fund established under NH RSA 146-F, or the Gasoline Remediation and Elimination of Ethers Fund established under NH RSA 146-G, or any other provision of law.

Except as provided in Subparagraph 111.b and 111.c (Waiver of Claims) and Paragraph 112 (Waiver of Claim-Splitting Defenses), these covenants not to sue shall not apply in the event the United States brings a cause of action or issues an order pursuant to the reservations set forth in Paragraph 109.c or Paragraph 110, but only to the extent that De Minimis Settlers' claims arise from the same response action, response costs, or damages that the United States is seeking pursuant to the applicable reservation.

b. The De Minimis Settling Federal Agency agrees not to assert any direct or indirect claim for reimbursement from the EPA Hazardous Substances Superfund based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611,

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9612, or 9613 ; any claim against the State, or any department, agency or instrumentality thereof, including but not limited to any direct or indirect claim for reimbursement from the Oil Discharge and Disposal Fund established under NH RSA 146-D, the Fuel Oil Discharge Cleanup Fund established under NH RSA 146-E, the Motor Oil Discharge Cleanup Fund established under NH RSA 146-F, or the Gasoline Remediation and Elimination of Ethers Fund established under NH RSA 146-G or any other provision of law with respect to the Site. This covenant does not preclude demand for reimbursement from the Superfund of costs incurred by the De Minimis Settling Federal Agency in the performance of its duties (other than pursuant to this Consent Decree) as lead or support agency under the NCP.

c. De Minimis Settlers and the De Minimis Settling Federal Agency agree not to assert any claims or causes of action (including claims for contribution under CERCLA) that they may have for all matters relating to the Site against each other or any other person who is a potentially responsible party under CERCLA at the Site. This waiver shall not apply with respect to any defense, claim, or cause of action that a De Minimis Settlor or the De Minimis Settling Federal Agency may have against any person if such person asserts or has asserted a claim or cause of action relating to the Site against such De Minimis Settlor or the De Minimis Settling Federal Agency.

d. Nothing in this Consent Decree shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. 300.700(d).

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112. In any subsequent administrative or judicial proceeding initiated by the United States or the State for injunctive relief, recovery of response costs, or other relief relating to the Site, the De Minimis Settlers shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, *res judicata*, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised in the subsequent proceeding were or should have been brought in the instant action; provided, however, that nothing in this Paragraph affects the enforceability of the covenant not to sue included in Paragraph 108.

113. Certification by the De Minimis Settling Federal Agency and De Minimis Settlers. By signing this Consent Decree, each De Minimis Settler certifies, individually, and by separate letter submitted to EPA and DOJ, the De Minimis Settling Federal Agency certifies that, to the best of its knowledge and belief, it:

a. has conducted a thorough, comprehensive, good faith search for documents, and has fully and accurately disclosed to EPA, all information currently in its possession, or in the possession of its parents, predecessors, successors, officers, directors, employees, contractors or agents, which relates in any way to the ownership, operation, or control of the Site, or to the ownership, possession, generation, treatment, transportation, storage or disposal of a hazardous substance, pollutant, or contamination at or in connection with the Site;

b. has not altered, mutilated, discarded, destroyed or otherwise disposed of any records, documents, or other information relating to its potential liability regarding the Site after notification of potential liability or the filing of a suit against it regarding the Site;

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c. has and will comply fully with any and all EPA requests for information regarding the Site pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e) and Section 3007 of the Resource Conservation and Recovery Act, 42 U.S.C. § 6927;

d. has provided information in Paragraph 113.a that is materially true and correct with respect to the amount of Waste Material(s) that the De Minimis Settling Federal Agency or the De Minimis Settlor may have shipped to the Site; with respect to the chemical nature and constituents of such Waste Material(s); and with respect to the toxic or other hazardous effects of such Waste Material(s);

e. with respect to the totality of the information provided to EPA by the De Minimis Settling Federal Agency or the De Minimis Settlor as described in Paragraph 113.a, in combination with any information provided to the De Minimis Settling Federal Agency or the De Minimis Settlor by EPA or the State describing that the De Minimis Settling Federal Agency's or the De Minimis Settlor's alleged involvement with the Site, and the De Minimis Settling Federal Agency or the De Minimis Settlor neither possesses nor knows of other documents or information which would suggest:

(1) that the De Minimis Settling Federal Agency or the De Minimis Settlor has shipped a higher volume of Waste Material(s) to the Site than is indicated by this information; or

(2) that the De Minimis Settling Federal Agency or the De Minimis Settlor has shipped Waste Material(s) to the Site possessing different chemical natures or

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constituents or possessing more toxic or other hazardous effects than are indicated by this information; and

f. with respect to each Settling ATP Defendant, has submitted Financial Information that fairly, accurately, and materially sets forth its financial circumstances, and that those circumstances have not materially changed between the time the Financial Information was submitted to EPA and the time Settling ATP Defendant executes this Consent Decree.

114. Payments by De Minimis Settlers and De Minimis Settling Federal Agency

a. Within 30 days of receipt of written notice of the entry of this Consent Decree, each De Minimis Settlor shall pay, as directed by EPA, its full settlement amount specified in Appendix D to this Consent Decree.

b. As soon as reasonably practicable after entry of this Consent Decree the United States, on behalf of the De Minimis Settling Federal Agency, shall pay, as directed by EPA, the full settlement amount specified in Appendix G to this Consent Decree.

c. The full settlement payment by each of the De Minimis Settlers and by the De Minimis Settling Federal Agency shall be made as directed by EPA. The payment shall reference the name and address of the party making payment (including the unique party identity number assigned by EPA), the Site name (Beede Waste Oil Superfund Site), EPA Region 1 and the Site Spill ID Number 01-IT, as well as the Docket Number assigned to this Consent Decree. A copy of the transmittal letter and the payment simultaneously shall be sent to EPA, and DOJ, and the State in accordance with Paragraph 128.

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d. The parties to this Consent Decree recognize and acknowledge that the payment obligations of the De Minimis Settling Federal Agency under this Consent Decree can only be paid from appropriated funds legally available for such purpose. Nothing in this Consent Decree shall be interpreted or construed as a commitment or requirement that the De Minimis Settling Federal Agency is obligated to pay funds in contravention of the Anti-Deficiency Act, 31, U.S.C. § 1341 or any other applicable provision of law.

115. Contribution Protection. Subject to the reservations of rights in this Section, the United States and the State agree that by entering into and carrying out the terms of this Consent Decree, the De Minimis Settling Federal Agency and each De Minimis Settlor will have resolved its liability to the United States and the State as defined in this Section, and, that with regard to claims for contribution against the De Minimis Settling Federal Agency, or De Minimis Settlers for matters addressed in this Consent Decree, the Parties hereto agree and, by entering this Consent Decree, the Court finds that the De Minimis Settling Federal Agency, and the De Minimis Settlers are entitled to such protection from contribution actions or claims as is provided by CERCLA, Sections 113(f)(2) and 122(g)(5), 42 U.S.C. §§ 9613(f)(2) and 9622(g)(5). Matters addressed in this Consent Decree are all U.S. and State Past, Interim, and Future Response Costs, and U.S. and State Oversight Costs incurred or to be incurred and all response actions taken or to be taken by the United States, and all response actions and all response costs incurred or to be incurred by any other person with respect to the Site or the ROD, including all State Past, Interim, and Future Response Costs and all State Oversight Costs incurred by any party with respect to the Site at the direction of or in cooperation with the United States, the State or any other person, including the RI and the FS, regardless of whether such

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response costs were incurred before or after the date of entry of this Consent Decree, and all claims under the New Hampshire RSA 507:7-h for matters addressed with respect to the Site. The Parties agree and, by entering this Consent Decree, the Court finds that the De Minimis Settling Federal Agency, and the De Minimis Settlers are also entitled to such protection from contribution to the extent provided by the laws of New Hampshire.

XXV. EFFECT OF SETTLEMENT; CONTRIBUTION PROTECTION

116. Except as provided in Paragraph 106 (Waiver of Claims Against De Micromis Parties) and Paragraph 107 (Waiver of Claims Against *De Minimis* Parties), nothing in this Consent Decree shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Consent Decree. The preceding sentence shall not be construed to waive or nullify any rights that any person not a signatory to this decree may have under applicable law. Except as provided in Paragraph 106 (Waiver of Claims Against De Micromis Parties) and Paragraph 107 (Waiver of Claims Against *De Minimis* Parties), each of the Parties expressly reserves any and all rights (including, but not limited to, any right to contribution), defenses, claims, demands, and causes of action which each Party may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto.

117. The Parties agree, and by entering this Consent Decree this Court finds, that the Performing Settling Defendants, and the Settling Federal Agencies are entitled, as of the Effective Date, to protection from contribution actions or claims as provided by CERCLA Section 113(f)(2), 42 U.S.C. § 9613(f)(2) for matters addressed in this Consent Decree. Matters

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addressed in this Consent Decree are all U.S. and State Past, Interim, and Future Response Costs, and U.S. and State Oversight Costs incurred or to be incurred and all response actions taken or to be taken by the United States, and all response costs incurred or to be incurred by any other person with respect to the Site or the ROD, including all State Past, Interim, and Future Response Costs and all State Oversight Costs incurred by any party with respect to the Site at the direction of or in cooperation with the United States or the State, regardless of whether such response costs were incurred before or after the date of entry of this Consent Decree and all claims under the State of New Hampshire RSA 507:7-h with respect to the Site.

118. The Performing Settling Defendants agree that with respect to any suit or claim for contribution brought by them for matters related to this Consent Decree they will notify the United States and the State in writing no later than 60 days prior to the initiation of such suit or claim.

119. The Performing Settling Defendants also agree that with respect to any suit or claim for contribution brought against them for matters related to this Consent Decree they will notify in writing the United States and the State within 10 days of service of the complaint on them. In addition, Performing Settling Defendants shall notify the United States and the State within 10 days of service or receipt of any Motion for Summary Judgment and within 10 days of receipt of any order from a court setting a case for trial.

120. In any subsequent administrative or judicial proceeding initiated by the United States or the State for injunctive relief, recovery of response costs, or other appropriate relief relating to the Site, Performing Settling Defendants shall not assert, and may not maintain, any

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defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States or the State in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of the covenants not to sue set forth in Section XXII (Covenants by Plaintiffs).

XXVI. ACCESS TO INFORMATION

121. Settling Defendants shall provide to EPA and the State, upon request, copies of all documents and information within their possession or control or that of their contractors or agents relating to activities at the Site or to the implementation of this Consent Decree, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information related to the Work. Settling Defendants shall also make available to EPA and the State, for purposes of investigation, information gathering, or testimony, their employees, agents, or representatives with knowledge of relevant facts concerning the performance of the Work.

122. Business Confidential and Privileged Documents.

a. Settling Defendants may assert business confidentiality claims covering part or all of the documents or information submitted to Plaintiffs under this Consent Decree to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. § 2.203(b). Documents or information determined to be confidential by EPA will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of

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confidentiality accompanies documents or information when they are submitted to EPA and the State, or if EPA has notified Settling Defendants that the documents or information are not confidential under the standards of Section 104(e)(7) of CERCLA or 40 C.F.R. Part 2, Subpart B, the public may be given access to such documents or information without further notice to Settling Defendants.

b. The Settling Defendants may assert that certain documents, records and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If the Settling Defendants assert such a privilege in lieu of providing documents, they shall provide the Plaintiffs with the following: (1) the title of the document, record, or information; (2) the date of the document, record, or information; (3) the name and title of the author of the document, record, or information; (4) the name and title of each addressee and recipient; (5) a description of the contents of the document, record, or information; and (6) the privilege asserted by Settling Defendants. However, no documents, reports or other information created or generated pursuant to the requirements of the Consent Decree shall be withheld on the grounds that they are privileged.

123. No claim of confidentiality shall be made with respect to any data, including, but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, or engineering data, or any other documents or information evidencing conditions at or around the Site.

XXVII. RETENTION OF RECORDS

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124. Until 10 years after the Performing Settling Defendants' receipt of EPA's notification pursuant to Paragraph 51.b of Section XIV (Certification of Completion), each Performing Settling Defendant shall preserve and retain all non-identical copies of records and documents (including records or documents in electronic form) now in its possession or control or which come into its possession or control that relate in any manner to its liability under CERCLA with respect to the Site, provided, however, that Performing Settling Defendants who are potentially liable as owners or operators of the Site must retain, in addition, all documents and records that relate to the liability of any other person under CERCLA with respect to the Site. Each Performing Settling Defendant must also retain, and instruct its contractors and agents to preserve, for the same period of time specified above all non-identical copies of the last draft or final version of any documents or records (including documents or records in electronic form) now in its possession or control or which come into its possession or control that relate in any manner to the performance of the Work, provided, however, that each Performing Settling Defendant (and its contractors and agents) must retain, in addition, copies of all data generated during the performance of the Work and not contained in the aforementioned documents required to be retained. Each of the above record retention requirements shall apply regardless of any corporate retention policy to the contrary.

125. At the conclusion of this document retention period, Performing Settling Defendants shall notify the United States and the State at least 90 days prior to the destruction of any such records or documents, and, upon request by the United States or the State, Performing Settling Defendants shall deliver any such records or documents to EPA or the State. The Performing Settling Defendants may assert that certain documents, records and other information

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are privileged under the attorney-client privilege or any other privilege recognized by federal law. If the Performing Settling Defendants assert such a privilege, they shall provide the Plaintiffs with the following: (1) the title of the document, record, or information; (2) the date of the document, record, or information; (3) the name and title of the author of the document, record, or information; (4) the name and title of each addressee and recipient; (5) a description of the subject of the document, record, or information; and (6) the privilege asserted by Performing Settling Defendants. However, no documents, reports or other information created or generated pursuant to the requirements of the Consent Decree shall be withheld on the grounds that they are privileged.

126. Each Performing Settling Defendant hereby certifies individually that, to the best of its knowledge and belief, after thorough inquiry, it has not altered, mutilated, discarded, destroyed or otherwise disposed of any records, documents or other information (other than identical copies) relating to its potential liability regarding the Site since notification of potential liability by the United States or the State or the filing of suit against it regarding the Site and that it has fully complied with any and all EPA requests for information pursuant to Section 104(e) and 122(e) of CERCLA, 42 U.S.C. 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. 6927.

127. The United States acknowledges that the Settling De Minimis Federal Agency and each Settling Federal Agency (1) is subject to all applicable Federal record retention laws, regulations, and policies; and (2) has certified that it has fully complied with any and all EPA

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and State requests for information pursuant to Section 104(e) and 122(e) of CERCLA, 42 U.S.C. 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. 6927.

XXVIII. NOTICES AND SUBMISSIONS

128. Whenever, under the terms of this Consent Decree, written notice is required to be given or a report or other document is required to be sent by one Party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Parties in writing. All notices and submissions shall be considered effective upon receipt, unless otherwise provided. Written notice as specified herein shall constitute complete satisfaction of any written notice requirement of the Consent Decree with respect to the United States, EPA, the Settling Federal Agencies, the State, and the Settling Defendants, respectively.

As to the United States:

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611 Washington, D.C. 20044-7611
Re: DJ # 90-11-3-07039/9

and

Chief, Environmental Defense Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 23986
Washington DC 20026-3986

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As to EPA:

Director, Office of Site Remediation and Restoration
United States Environmental Protection Agency
Region 1

and

EPA Remedial Project Coordinator - Beede Waste Oil Superfund Site
United States Environmental Protection Agency
Region 1

and

EPA Site Attorney/Senior Enforcement Counsel - Beede Waste Oil Superfund Site
United States Environmental Protection Agency
Region I

As to the State:

State Project Coordinator - Beede Waste Oil Superfund Site
New Hampshire Department of
Environmental Services
P.O. Box 95
Concord, New Hampshire 03302-0095

and

Senior Assistant Attorney General - Beede Waste Oil Superfund Site
Environmental Protection Bureau
Office of the Attorney General
33 Capitol Street
Concord, New Hampshire 03301

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As to the Settling Defendants:

John V. Dwyer, Esquire
Winer and Bennett, LLP
111 Concord Street, P.O. Box 488
Nashua, New Hampshire 03061-2694

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XXIX. EFFECTIVE DATE

129. The effective date of this Consent Decree shall be the date upon which this Consent Decree is entered by the Court, except as otherwise provided herein.

XXX. RETENTION OF JURISDICTION

130. This Court retains jurisdiction over both the subject matter of this Consent Decree and the Settling Defendants for the duration of the performance of the terms and provisions of this Consent Decree for the purpose of enabling any of the Parties to apply to the Court at any time for such further order, direction, and relief as may be necessary or appropriate for the construction or modification of this Consent Decree, or to effectuate or enforce compliance with its terms, or to resolve disputes in accordance with Section XX (Dispute Resolution) hereof.

XXXI. APPENDICES

131. The following appendices are attached to and incorporated into this Consent Decree:

“Appendix A” is the ROD.

“Appendix B” is the SOW.

“Appendix C” is the map of the Site.

“Appendix D” is the complete list of the De Minimis Settling Defendants.

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“Appendix E” is the complete list of the Owner Settling Defendants.

“Appendix F” is the complete list of Settling Federal Agencies.

“Appendix G” identifies the De Minimis Settling Federal Agency.

“Appendix H” is the complete list of Performing Settling Defendants (which include generators and owner/operators under CERCLA).

“Appendix I” is the complete list of Settling ATP Defendants.

“Appendix J” is the list of financial documents submitted to EPA by each Settling ATP Defendant.

“Appendix K (1) and (2)” are the Draft Easements.

“Appendix L” is the Draft Confidentiality Agreement.

“Appendix M” is the list of excepted liens and encumbrances.

XXXII. COMMUNITY RELATIONS

132. Performing Settling Defendants shall propose to EPA and the State their participation in the community relations plan to be developed by EPA. EPA will determine the appropriate role for the Performing Settling Defendants under the Plan. Performing Settling Defendants shall also cooperate with EPA and the State in providing information regarding the Work to the public. As requested by EPA or the State, Performing Settling Defendants shall

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participate in the preparation of such information for dissemination to the public and in public meetings which may be held or sponsored by EPA or the State to explain activities at or relating to the Site.

XXXIII. MODIFICATION

133. Material modifications to the SOW may be made only by written notification to and written approval of the United States, Performing Settling Defendants, and the Court. Prior to providing its approval to any modification, the United States will provide the State with a reasonable opportunity to review and comment on the proposed modification.

134. Modifications to the schedules specified in the Consent Decree for completion of the Work, or modifications to the SOW that do not materially alter that document may be made by written agreement between EPA, after providing the State with a reasonable opportunity to review and comment on the proposed modification, and the Performing Settling Defendants. Such non-material modifications will become effective upon agreement of the parties.

135. Non-material modifications to the Consent Decree other than those addressed above in Paragraph 134 may be made only by written notification to and written approval of the United States, the State and the Performing Settling Defendants. Such modifications will become effective upon filing with the Court by the United States. Material modifications to the Consent Decree and any modifications to the Performance Standards may be made only by written notification to and written approval of the United States, the State, the Performing Settling Defendants, and the Court.

136. Nothing in this Decree shall be deemed to alter the Court's power to enforce, supervise or approve modifications to this Consent Decree.

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137. For purposes of this Section, the Consent Decree shall not include the SOW or other attachments to the Consent Decree.

XXXIV. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT

138. This Consent Decree shall be lodged with the Court for a period of not less than thirty (30) days for public notice and comment in accordance with Section 122(d)(2) of CERCLA, 42 U.S.C. § 9622(d)(2), and 28 C.F.R. § 50.7. The United States reserves the right to withdraw or withhold its consent if the comments regarding the Consent Decree disclose facts or considerations which indicate that the Consent Decree is inappropriate, improper, or inadequate. Settling Defendants consent to the entry of this Consent Decree without further notice.

139. If for any reason the Court should decline to approve this Consent Decree in the form presented, this agreement is voidable at the sole discretion of any Party and the terms of the agreement may not be used as evidence in any litigation between the Parties.

XXXV. SIGNATORIES/SERVICE

140. Each undersigned representative of a Settling Defendant to this Consent Decree, the State of New Hampshire, and the United States certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Decree and to execute and legally bind such Party to this document.

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141. Each Settling Defendant hereby agrees not to oppose entry of this Consent Decree by this Court or to challenge any provision of this Consent Decree unless the United States has notified the Settling Defendants in writing that it no longer supports entry of the Consent Decree.

142. Each Settling Defendant shall identify, on the attached signature page, the name, address and telephone number of an agent who is authorized to accept service of process by mail on behalf of that Party with respect to all matters arising under or relating to this Consent Decree. Settling Defendants hereby agree to accept service in that manner and to waive the formal service requirements set forth in Rule 4 of the Federal Rules of Civil Procedure and any applicable local rules of this Court, including, but not limited to, service of a summons. The parties agree that Settling Defendants need not file an answer to the complaint in this action unless or until the court expressly declines to enter this Consent Decree.

XXXVI. FINAL JUDGMENT

143. This Consent Decree and its appendices constitute the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement embodied in the Consent Decree. The Parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Consent Decree.

144. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute a final judgment between and among the United States, the State, and the Settling Defendants. The Court finds that there is no just reason for delay and therefore enters this judgment as a final judgment under Fed. R. Civ. P. 54 and 58.

SO ORDERED THIS __ DAY OF _____, 20__.

United States District Judge

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

FOR THE UNITED STATES OF AMERICA

Date

3/21/07

MATTHEW J. MCKEOWN
Acting Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice
Washington, D.C. 20530

Date

4/13/07

JEFFREY K. SANDS
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
(202) 514-3908
(202) 616-2427 (fax)
jeffrey.sands@usdoj.gov

THOMAS P. COLANTUONO
United States Attorney
District of New Hampshire

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Dec. 21, 2006
Date

IRA W. LEIGHTON
Deputy Regional Administrator, Region I
U.S. Environmental Protection Agency
One Congress Street, Suite 1100
Boston, Massachusetts 02114-2023

December 21, 2006
Date

CYNTHIA A. LEWIS
Senior Enforcement Counsel
U.S. Environmental Protection Agency
Region I
One Congress Street, Suite 1100
Boston, Massachusetts 02114-2023

FOR THE STATE OF NEW HAMPSHIRE

Date

JENNIFER J. PATTERSON
Senior Assistant Attorney General
Environmental Protection Bureau
Office of the Attorney General
33 Capitol Street
Concord, New Hampshire 03301

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Date

IRA W. LEIGHTON
Deputy Regional Administrator, Region I
U.S. Environmental Protection Agency
One Congress Street, Suite 1100
Boston, Massachusetts 02114-2023

Date

CYNTHIA A. LEWIS
Senior Enforcement Counsel
U.S. Environmental Protection Agency
Region I
One Congress Street, Suite 1100
Boston, Massachusetts 02114-2023

FOR THE STATE OF NEW HAMPSHIRE

12/20/06

Date

JENNIFER J. PATTERSON
Senior Assistant Attorney General
Environmental Protection Bureau
Office of the Attorney General
33 Capitol Street
Concord, New Hampshire 03301

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **ExxonMobil Corporation**

Party Identification Number: **GRP436**

FOR _____ COMPANY, INC. */
M

Dec 11, 2006

Date



Signature:

Name (print): STEVEN C POLKEY

Title: DOWNSTREAM & CHEMICAL SHALE MANAGER

Address: 3225 GRIFFIN RD.

Fairfax VA, 22037

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Mike Skinner

Title: Superfund Project Manager

Address: 230 Kings Highway East #300

Haddonfield NJ 08033

Ph. Number: 856-429-5336

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Cumberland Farms**

Party Identification Number: **2174**

FOR _____ COMPANY, INC. */

12/12/06
Date

Signature: _____

Name (print): Emile Tayeh

Title: Chief Vice President of Environmental

Address: 777 Dedham Street

Canton, MA 02021

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): _____

Title: _____

Address: CT Corporation System

101 Federal Street, Suite 300

Boston, MA 02110

Ph. Number: (617) 531-5800

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: ~~Ryder Truck Rental~~ First Group America, Inc.

Party Identification Number: **GRP289**

FOR First Group America COMPANY, INC. */

12/13/06

Date

Signature: _____

Name (print): Michael Petrucci

Title: Associate General Counsel & Asst. Sect'y

Address: 705 Central Ave. Ste 300

Cincinnati, Ohio 45202

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Same as above

Title: _____

Address: _____

Ph. Number: _____

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. Exxon Mobil Corporation, et al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **VERNON PLASTICS COMPANY**

Party Identification Number: **5196**

Date: 12/15/2006

FOR HEXION SPECIALTY CHEMICALS, INC.
(f/k/a "BDS Two, Inc.," successor in interest to Vernon Plastics Company)

Signature: _____
Name (print): Richard L. Monty
Title: Executive Vice President, EH&S
Address: 180 East Broad Street - 24th Floor
Columbus, Ohio 43215

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: Thomas J. Grever
Title: Attorney
Address: Shook, Hardy & Bacon, LLP
2555 Grand Boulevard
Kansas City, Missouri 64108
Telephone #: 816.559.2375

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Waste Management**
Party Identification Number: **GRP438**

FOR WASTE MANAGEMENT OF
MASSACHUSETTS, INC.

1/9/07
Date

Stephen T. Joyce (U)
Area Director – Closed Sites
Waste Management
4 Liberty Lane West
Hampton, NH 03842

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Roy P. Giarrusso
Attorney for Waste Management
Giarrusso, Norton, Cooley & McGlone, PC
Marina Bay
308 Victory Road
Quincy, MA 02171
(617) 770-2900

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Waste Management**
Party Identification Number: **GRP438**

FOR WASTE MANAGEMENT OF
NEW HAMPSHIRE, INC.

1/9/07
Date

Stephen T. Joyce
Area Director – Closed Sites
Waste Management
4 Liberty Lane West
Hampton, NH 03842

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Roy P. Giarrusso
Attorney for Waste Management
Giarrusso, Norton, Cooley & McGlone, PC
Marina Bay
308 Victory Road
Quincy, MA 02171
(617) 770-2900

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Waste Management**
Party Identification Number: **GRP438**

FOR WASTE MANAGEMENT DISPOSAL
SERVICES OF MASSACHUSETTS, INC.

1/9/07
Date

Stephen T. Joyce
Area Director – Closed Sites
Waste Management
4 Liberty Lane West
Hampton, NH 03842

Agent Authorized to Accept Service on Behalf of Above-signed Party:

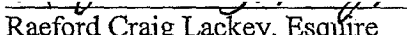
Roy P. Giarrusso
Attorney for Waste Management
Giarrusso, Norton, Cooley & McGlone, PC
Marina Bay
308 Victory Road
Quincy, MA 02171
(617) 770-2900

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Waste Management**
Party Identification Number: **GRP438**

FOR CLEAN HARBORS OF
BRAINTREE, INC.

12/15/2006
Date


Raeferd Craig Lackey, Esquire
Vice President & Chief Counsel
Environmental Law & Litigation
200 Arbor Lake Drive
Suite 300
Columbia, SC 29223

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Roy P. Giarrusso
Attorney for Waste Management
Giarrusso, Norton, Cooley & McGlone, PC
Marina Bay
308 Victory Road
Quincy, MA 02171
(617) 770-2900

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: Fluor Enterprises, Inc.

Party Identification Number: 1613

Fluor Enterprises, Inc.
FOR _____ COMPANY, INC. */

12-15-06

Date

Signature: _____

Name (print): Lawrence N. Fisher

Title: Vice President & Secretary

Address: Fluor Enterprises, Inc.

6700 Las Colinas Blvd.

Irving, TX 75039



Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Karen A. Mignone

Title: Pepe & Hazard LLP

Address: 30 Jelliff Lane

Southport, CT 06890-1436

Ph. Number: (203) 319-4000

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Sears, Roebuck and Co.**

Party Identification Number: **4554**

FOR Sears, Roebuck + Co.
COMPANY, INC. */

12/12/06
Date:

Signature: _____
Name (print): Laura A. Derowin
Title: Senior Counsel
Address: 3333 Bererly Rd.
B6-348B
Hoffman Estates, IL
60179

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Laura A. Derowin
Title: Senior Counsel
Address: 3333 Bererly Rd
B6-348B
Hoffman Estates, IL
Ph. Number: 847-286-5734 60179

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Greased Lightning, Inc.**

Party Identification Number: **2383**

FOR GREASED
LIGHTNING, Inc. ~~COMPANY, INC.~~ */

December 15, 2006

Date

Signature: _____

Name (print): David P. Rosenblatt

Title: Counsel to Greased Lightning, Inc.

Address: Burns & Levinson LLP

125 Summer Street

Boston, MA 02110

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): David P. Rosenblatt

Title: Counsel to Greased Lightning, Inc.

Address: Burns & Levinson LLP

125 Summer Street

Boston, MA 02110

Ph. Number: 2383

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Fafard Real Estate and Development Corp.**

Party Identification Number: **GRP455**

~~Fafard Real Estate and Development Corp.~~
FOR _____ ~~COMPANY, INC. */~~

December 15, 2006

Date

Signature: _____

Name (print): RICHARD E. TELLER

Title: Senior Vice President and Chief Financial Off

Address: 290 Eliot Street

Ashland, MA 01721

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Harold B. Murphy, Esq.

Title: Counsel to Fafard Real Estate and Development
Corp.

Address: Hanify & King, P.C.

One Beacon Street, 21st Floor

Boston, MA 02108

Ph. Number: (617) 423-0400

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Drake Petroleum Company, Inc.**

Party Identification Number: **1279**

FOR Drake Petroleum COMPANY, INC. */

12/11/06

Date

Signature: _____

Name (print): Jeffrey A Walker

Title: Secretary

Address: 221 Quinebaug Rd

N. Grosvenordale, Ct

06255

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Jeffrey A Walker

Title: Secretary

Address: c/o Warren Equities, Inc.

301 Edgewater Place, Suite 320

Wakefield, Ma 01880

Ph. Number: 781-245-5001

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **P. J. Keating Company**

Party Identification Number: **2350**

FOR P.J. KEATING COMPANY, INC. */

12/11/06
Date

Signature: _____

Name (print): JAMES M. REGER

Title: PRESIDENT

Address: 998 RESERVOIR RD
LUNenburg, MA 01462

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Mark E. Beliveau, Esq.

Title: Partner

Address: Pierce Atwood LLP

One New Hampshire Ave., Ste. 350
Portsmouth, N.H. 03801

Ph. Number: (603) 433-6300

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Triumvirate Environmental, Inc.**

Party Identification Number: **5081**

FOR _____ COMPANY, INC. */

12/15/06
Date

Signature: _____
Name (print): Doug Youngen
Title: C.O.O.
Address: 61 Innerbelt Road
Somerville, MA
02143

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): _____
Title: _____
Address: _____

Ph. Number: _____

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Boston & Maine Corporation**

Party Identification Number: **8005**

FOR _____ COMPANY, INC. */

12/15/06

Date

Signature: (_____

Name (print): DAVID A. Fink

Title: President

Address: 1700 Iron Horse Park

North Billerica, MA 01862

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): C. Clinton P. Wright

Title: Staff Attorney

Address: 1700 Iron Horse Park

North Billerica, MA 01862

Ph. Number: (978) - 663 - 1029

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Colonial Gas Company**

Party Identification Number: **1994**

FOR Colonial Gas COMPANY, INC. */

12/14/05
Date

Signature: _____

Name (print): MICHAEL J. DAVINSON

Title: VP TREASURER AND CFO

Address: _____

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Francis J. Murphy

Title: Senior Counsel

Address: KeySpan Corporation

One MetroTech Center

Brooklyn NY 11201

Ph. Number: 718-403-2855

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **United Parcel Service**

Party Identification Number: **GRP288**

FOR United Parcel Service, Inc.
~~COMPANY, INC. */~~

12.15.06

Date

Signature: _____

Name (print): Robert D. Mowrey

Title: Authorized Attorney

Address: Alston & Bird

1201 W. Peachtree Street

Atlanta, GA 30306-3424

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Robert D. Mowrey

Title: Attorney

Address: Alston & Bird

1201 West Peachtree Street

Atlanta GA 30306-3424

Ph. Number: 404 ~~872~~ 881-7242

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **GenCorp. Inc.**

Party Identification Number: **0329**

FOR GENCORP INC
~~COMPANY, INC. *~~

Date

Signature: _____
Name (print): CHRIS W. CONLEY
Title: VICE PRESIDENT, EHS
Address: PO BOX 537012
SACRAMENTO, CA 95853

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): DAVID M. RYMPH
Title: DIRECTOR, ENV. REMEDIATION
Address: GENCORP INC
26677 WEST TWELVE MILE ROAD
SUITE 140
Ph. Number: SOUTHFIELD, MI 48034
(248) 358-2696

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Laidlaw Transit, Inc.**

Party Identification Number: 3343

FOR _____ COMPANY, INC. */

Date

Signature: _____

Name (print): B. A. Wyckoff

Title: VP + GC

Address: 55 Shuman Blvd

Suite 400

Naperville, IL 60563

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): NATALIE A. WARSH

Title: ATTORNEY

Address: WARSH LAW OFFICES

4434 N. TRIPP AVE.

CHICAGO, IL 60630

Ph. Number: (312) 251-9401

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.


THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Fleet Bank**

Party Identification number: **4587**

FOR DBT CORP., ON ITS OWN BEHALF AND
ON BEHALF OF COLEX REALTY TRUST,
COLEX REALTY LIMITED PARTNERSHIP,
AND BANK OF AMERICA, N.A., SUCCESSOR
BY MERGER TO FLEET NATIONAL BANK,
SUCCESSOR BY MERGER TO SHAWMUT
BANK*/

December 15, 2006
Date

Signature: 
Name (print): Phyllis P. Nash
Title: Senior Vice President, DBT Corp.
Address: 100 South Charles Street
Fourth Floor (MD 4-325-04-23)
Baltimore, MD 21201

Agent Authorized to Accept Service on Behalf of Above-Signed Party

Name (print): Phyllis P. Nash
Title: Senior Vice President, DBT Corp.
Address: 100 South Charles Street
Fourth Floor (MD 4-325-04-23)
Baltimore, MD 21201

Phone Number: 410-547-4002

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **1400 Motors, Inc.**

Party Identification Number: **1975**

FOR 1400 Motors, Inc. ~~COMPANY, INC.~~ */

December 15, 2006

Date

Signature: _____

Name (print): David P. Rosenblatt

Title: Counsel to 1400 Motors, Inc.

Address: Burns & Levinson LLP

125 Summer Street

Boston, MA 02110

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): David P. Rosenblatt

Title: Counsel to 1400 Motors, Inc.

Address: Burns & Levinson LLP

125 Summer Street

Boston, MA 02110

Ph. Number: 1975

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Pike Industries, Inc.**

Party Identification Number: **4017**

FOR Pike Industries, Inc. COMPANY, INC. */

12-12-06

Date

Signature: [Signature]

Name (print): Christian E. Zimmermann

Title: President

Address: 3 Eastgate Park Rd.

Belmont, NH 03220

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Mark E. Beliveau

Title: Attorney for Pike Industries, Inc.

Address: Pierce Atwood LLP

One New Hampshire Ave., Ste. 350

Portsmouth, N.H. 03801

Ph. Number: (603) 373-2002

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: City of Providence, Rhode Island

Party Identification Number: GRP402

FOR : ~~COMPANY, INC. XX~~
City of Providence, Rhode Island

Dec 12, 2006
Date

Signature: _____
Name (print): Joseph M. Fernandez
Title: City Solicitor
Address: City of Providence - Law Department
275 Westminster Street Suite 200
Providence, Rhode Island 02903

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): _____
Title: Joseph M. Fernandez
Address: City Solicitor
City of Providence - Law Department
275 Westminster Street Suite 200
Ph. Number: Providence, Rhode Island 02903

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Covanta Haverhill, Inc.**

Party Identification Number: **3808**

FOR Covanta Haverhill, Inc.
XXXXXXXXXXXXXXXXXXXX*/

12/15/06
Date

Signature: _____
Name (print): SETH MYJONES *MT*
Title: SVP
Address: 40 Lane Road
Fairfield, NJ 07007

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Nancy Tammi
Title: VP, Assoc. General Counsel
Address: Covanta Energy Group, Inc.
40 Lane Road
Fairfield, NJ 07007
Ph. Number: 973-882-7205

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Fort James Corporation**

Party Identification Number: **0184**

FOR 1 COMPANY, INC. */

DECEMBER 15, 2006

Date

Signature: _____

Name (print): J. MICHAEL DAVIS

Title: CHIEF COUNSEL / ENVIRONMENTAL

Address: 133 PEACHTREE STREET

ATLANTA, GA. 30303

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): J. MICHAEL DAVIS

Title: CHIEF COUNSEL / ENVIRONMENTAL

Address: 133 PEACHTREE STREET

ATLANTA, GA 30303

Ph. Number: 404-652-7497

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Coca-Cola Enterprises, Inc.**

Party Identification Number: **GRP452**

FOR _____ ~~COMPANY, INC. */~~
COCA-COLA ENTERPRISES INC.

December 7, 2006

Date

Signature: _____

Name (print): David M. Katz

Title: Vice President, Supply Chain

Address: P.O. Box 723040

Atlanta, GA 31139-0040

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Brian E. Humphrey

Title: Attorney

Address: Miller & Martin PLLC

832 Georgia Ave., Suite 1000

Chattanooga, Tn 37402-2289

Ph. Number: 423-785-8309

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Regan Ford, Inc.**

Party Identification Number: **4256**

FOR Regan Ford, Inc ~~COMPANY, INC.~~ */

December 15, 2006

Date

Signature: _____

Name (print): David P. Rosenblatt

Title: Counsel to Regan Ford, Inc.

Address: Burns & Levinson LLP

125 Summer Street

Boston, MA 02110

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): David P. Rosenblatt

Title: Counsel to Regan Ford, Inc.

Address: Burns & Levinson LLP

125 Summer Street

Boston, MA 02110

Ph. Number: 4256

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Marble Motor Company**

Party Identification Number: **3273**

FOR MARBLE MOTOR COMPANY, INC. */

12-15-06
Date

Signature _____
Name (print): DANA A. FIELDS
Title: PRESIDENT
Address: 150 LAFAYETTE ST.
P.O. Box 930
HAVERHILL MA 01831

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): _____
Title: _____
Address: _____

Ph. Number: _____

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Hampshire Realty Trust**

FOR _____ COMPANY, INC. */

Nov 24, 2006
Date

Signature: [Signature]

Name (print): MARK O. HENRY

Title: Trustee

Address: 35 EVERGREEN DRIVE
NORTH ANDOVER, MA 01845

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): _____

Title: _____

Address: _____

Ph. Number: _____

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Sun Realty Trust**

FOR _____ COMPANY, INC. */

Nov. 24, 2006
Date

Signature: _____

Name (print): SEAN P HENRY

Title: TRUSTEE

Address: 35 EVERGREEN DRIVE
NORTH ANDOVER, MA 01845

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): _____

Title: _____

Address: _____

Ph. Number: _____

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Mark O. Henry**

Party Identification Number: **2554**

FOR _____ COMPANY, INC. */

11/24/2006
Date

Signature: _____

Name (print): MARK O. HENRY

Title: _____

Address: 35 EVERGREEN DRIVE
NORTH ANDOVER, MA 01845

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): _____

Title: _____

Address: _____

Ph. Number: _____

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **A & B Automotive, Inc.**

Party Identification Number: **GRP454**

A&B AUTOMOTIVE, INC.
FOR _____ COMPANY, INC. */

Date

Signature: _____

Name (print): Armand Langlois

Title: President

Address: 1258 Main Street

Tewksbury, MA 01876

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Michael P. Murphy

Title: Attorney

Address: Regnante, Sterio & Osborne LLP

401 Edgewater Place, Suite 630

Wakefield, MA 01880

Ph. Number: (781) 246-2525

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Air Products and Chemicals**

Party Identification Number: **0127**

FOR **AIR PRODUCTS AND CHEMICALS, INC.***/

12/8/06
Date

TS

Signature: _____
Name (print): David J. Taylor
Title: Vice President Energy Businesses
Address: 7201 Hamilton Boulevard
Allentown, PA 18195-1501

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): H. Glenn Alberich, Esq.
Title: Attorney of Record
Address: Burns & Levinson LLP
125 Summer Street
Boston, MA 02110
Ph. Number: (617) 345-3660

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Balise Chevrolet-Oldsmobile**

Party Identification Number: **0500**

FOR BALISE MOTOR SALES CO. */

11-30-06
Date

Signature: _____
Name (print): STEVEN M. MITUS
Title: Chief Financial Officer
Address: 1102 Riverdale Street
West Springfield, MA 01089

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): H. Glenn Alberich, Esq.
Title: Attorney of Record
Address: Burns & Levinson LLP
125 Summer Street
Boston, MA 02110
Ph. Number: (617) 345-3660

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Bardon Trimount**

Party Identification Number: **0516**

FOR Aggregate Industries-Northeast Region, Inc.
COMPANY, INC. * (f/w/ Bardon Trimount, Inc.)

Date _____

Signature: _____

Name (print): Todd A. Richards

Title: Clerk/Secretary

Address: 1715 Broadway
Saugus, MA 01906

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): CT Corporation Systems

Title: _____

Address: 101 Federal Street
Suite 300

Boston, MA 02110

Ph. Number: 617-757-6400

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

**/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.*

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.


Name of PRP: **City of Boston**

Party Identification Number: **GRP310**

FOR City of Boston

12-15-06

Date

Signature: 

Name (print): Mark Sweeney

Title: First Assistant Corporation Counsel

Address: City of Boston Law Department
One City Hall Plaza, Room 615
Boston, MA 02201

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Joseph M. Alden

Title: Assistant Corporation Counsel

Address: City of Boston Law Department
One City Hall Plaza, Room 615
Boston, MA 02201

Ph. Number: (617) 635-4097

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **City of Gloucester**

Party Identification Number: **GRP340**

FOR _____ COMPANY, INC. */

12/14/2006

Date

Signature: _____

Name (print): John Bell

Title: Mayor

Address: 9 Dale Avenue

Gloucester, MA 01930

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Linda T. Lowe

Title: General Counsel

Address: 9 Dale Avenue

Gloucester, MA 01930

Ph. Number: (978) 281-9700

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

Party Identification No.
GRP394

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **City of Peabody**

Party Identification Number: **GRP394**

Peabody Municipal Light Plant
FOR COMPAANY, INC.

December 12, 2006

Date _____

Signature: _____
Name (print): William Waters
Title: General Manager
Address: 201 Warren St. Extension
Peabody, MA 01960

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Sherilyn Burnett Young
 Title: Attorney
 Address: Rath, Young and Pignatelli, P.C.
One Capital Plaza
Concord, NH 03302-1500
 Ph. Number: (603) 226-2600

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **City of Peabody**

Party Identification Number: **GRP394**

FOR City of Peabody COMPANY, INC. */

December 12, 2006

Date

Signature: _____

Name (print): Michael J. Bonfanti

Title: Mayor

Address: 24 Lowell St.
Peabody Ma 01960

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Lawrence J. O'Keefe Esq

Title: City Solicitor

Address: 30 Main St.
Peabody Ma 01960

Ph. Number: (978) 531-1710

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Colonial Cadillac-Olds, Inc.**

Party Identification Number: **1990**

FOR Colonial Cadillac-Oldsmobile, Inc
COMPANY, INC. */

02/12/06
Date

Signature: _____

Name (print): Henry R. P. 220

Title: _____

Address: 24 Commonwealth AVE
DANVER MA
01923

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Sherilyn Burnett Young

Title: Attorney

Address: Rath, Young and Pignatelli, P.C.
One Capital Plaza
Concord, NH 03302-1500

Ph. Number: (603) 226-2600

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Continental Paving**

Party Identification Number: **2053**

CONTINENTAL PAVING INC.

FOR _____ */

12/12/06

Date

Signature: _____

Name (print): Mark Charbonneau

Title: Pres.

Address: One Continental Drive

Londonderry, NH 03053

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Morgan A. Hollis

Title: Attorney

Address: Gottesman & Hollis P.A.

39 East Pearl Street

Nashua, NH 03060

Ph. Number: (603) 889-5959

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Daley Oil Company**

Party Identification Number: **1003**

FOR Daley Oil COMPANY, INC. */

12/15/06

Date

Signature

Name (print): MARY DALEY

Title:

Address: 196 LUTHER AVE

SOMERSET, MA

02726

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): KAREN ANTHON BENSON

Title: ATTORNEY AT LAW

Address: 251 BANK STREET

FALL RIVER, MA 02720

Ph. Number: 508-676-0011

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Dampolo Automotive, ^{Inc.}~~Inc.~~**

Party Identification Number: **4487**

FOR Dampolo Automotive, Inc. ~~COMPANY, INC.~~ */

Date _____

Signature: _____

Name (print): Salvatore A. Dampolo

Title: President

Address: _____

299 Boston Road
N. Billerica MA 01862

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Salvatore A. Dampolo
Name (print): Dampolo Automotive, Inc.

Title: President

Address: 299 Boston Rd

N. Billerica MA 01862

Ph. Number: 978-667-6000

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Empire Chevrolet, Inc.**

Party Identification Number: **1433**

FOR COLONIAL SOUTH CHEVROLET, INC. */

12/5/06
Date

Signature: _____

Name (print): Robert J. D'Amico

Title: CFO

Address: 245 William S. Canning Blvd.

Fall River, MA 02721

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): H. Glenn Alberich, Esq.

Title: Attorney of Record

Address: Burns & Levinson LLP

125 Summer Street

Boston, MA 02110

Ph. Number: (617) 345-3660

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Enzo's Nahant Garage**

Party Identification Number: **1451**

FOR ¹ ~~ENZO'S NAHANT GARAGE~~
COMPANY, INC. */

12-4-06
Date

Signature: _____
Name (print): FRANK BARK
Title: owner
Address: 21 SPRING RD
NAHANT MA 01908
781-581-0011

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): _____
Title: _____
Address: _____

Ph. Number: _____

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: Garelick Farms, LLC

Party Identification Number: 2212

FOR Garelick FARMS, LLC
COMPANY, INC. */

12-01-2006

Date

Signature: E

Name (print): Edward Herman

Title: Authorized Signatory

Address: 2515 McKinney Avenue
Suite 1200
Dallas, TX 75201

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Edward Herman

Title: Authorized Signatory

Address: 2515 McKinney Avenue
Suite 1200
Dallas, TX 75201

Ph. Number: (214) 721-1146

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **General Electric Somersworth**

Party Identification Number: **7998**

FOR GENERAL
ELECTRIC COMPANY, INC. */

Dec. 14, 2006
Date

Signature: _____
Name (print): 'Richard' Lubert
Title: General Manager EHS
Address: GE Energy
1 River Road
Schenectady, NY 12345

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Ignacia Moreno
Title: Counsel
Address: General Electric
Corporate Environmental Programs
319 Great Oaks Blvd
Ph. Number: Albany, NY 12203-5971
518-862-2714

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Haffner's Service Station**

Party Identification Number: 2445

HAFNER'S SERVICE STATION
FOR COMPANY, INC.*

12/13/2006

Date

Signature:

Name (print): E. HAFNER FOURNIER

Title: PRESIDENT

Address: 2 INTERNATIONAL WAY
LAWRENCE, MA 01843-1064

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): E. HAFNER FOURNIER

Title: PRESIDENT

Address: 2 INTERNATIONAL WAY
LAWRENCE, MA 01843-1064
978-683-2771

Ph. Number: 978-815-1840

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **H J Nassar Motor Company**

Party Identification Number: **3623**

H J NASSAR MOTOR
FOR _____ COMPANY, INC. */

12-13-06
Date

Signature: _____
Name (print): HENRY J NASSAR
Title: PRESIDENT
Address: 320 SOUTH BROADWAY
LAWRENCE, MA 01843

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Sherilyn Burnett Young
Title: Attorney
Address: Rath, Young and Pignatelli, P.C.
One Capital Plaza
Concord, NH 03302-1500
Ph. Number: (603) 226-2600

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Hughes Motor Company**

Party Identification Number: **6007**

FOR _____ COMPANY, INC. */

Dec/12/2006
Date

Signature: _____
Name (print): Denise D. Smith
Title: Administratrix
Address: 91 Lawrence Rd
Salem N.H.
03079

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Dana Blakslee Esq.
Title: Attorney
Address: Deane Morris LLP
470 Atlantic Ave
Boston MA 02210
Ph. Number: (617) 289-9243

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Jaffarian Service, Inc.**

Party Identification Number: **2759**

Dec. 8, 2006

Date

SERVICE, INC.
FOR JAFFARIAN'S /~~XXXXXXXXXXXX~~
D/B/A Jaffarian Volvo Toyota
also D/B/A Jaffarian Volvo Toyota Scion
also D/B/A Jaffarian Scion also D/B/A Jaffarian Motors
Signature: _____
Name (print): Gary R. Jaffarian
Title: President
Address: 600 River Street
Haverhill, MA
01832

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Gary R. Jaffarian
Title: President
Address: 600 River Street
Haverhill, MA 01832
Ph. Number: 978-372-8551

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **John Arvanites (dba Arvo's Ispwich Mobil)**

Party Identification Number: **3235**

FOR

Arvo's Gulf

ARVO'S Ispwich
MOBIL

COMPANY, INC. */

12/4/06
Date

Signature:

Name (print): John Arvanites

Title: Owner

Address: 15 Topsfield Rd.
Ispwich, Mass
01938

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): John Arvanites

Title: Owner

Address: 15 Topsfield Rd.
Ispwich, Mass
01938

Ph. Number: 978-356-5112

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **McKenna & O'Keefe**

Party Identification Number: **3345**

McKenna & O'Keefe
FOR _____ COMPANY, INC. */

11/29/06

Date

Signature: _____
Name (print): Robert O'Keefe ✓
Title: Owner/Principal
Address: 133-137 Cambridge St.
Lowell, MA 01852

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): _____
Title: _____
Address: _____

Ph. Number: _____

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Merchants Motor Company**

Party Identification Number: **3383**

MERCHANTS AUTOMOTIVE GROUP, INC.
FOR 1 COMPANY, INC. */

December 12, 2006

Date

Signature: _____

Name (print): Robert Silber

Title: Owner

Address: Merchants Automotive Group
1278 Hooksett Road
Hooksett, NH 03106

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Sherilyn Burnett Young, ESQ.

Title: Counsel

Address: RARA Young, And Pignatelli
1 Capitol Plaza, P.O. Box 1500
Concord, NH 03302

Ph. Number: 603-226-2600

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

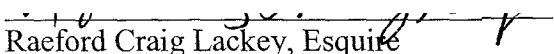
THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Murphy's Waste Oil Service, Inc.**

Party Identification Number: **8032**

FOR: MURPHY'S WASTE OIL SERVICE, INC.

12/15/2006
Date


Raeford Craig Lackey, Esquire
Vice President & Chief Counsel
Environmental Law & Litigation
200 Arbor Lake Drive, Suite 300
Columbia, SC 29223

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Raeford Craig Lackey, Esquire
Vice President & Chief Counsel
Environmental Law & Litigation
Clean Harbors Environmental Services, Inc.
Law Department
200 Arbor Lake Drive, Suite 300
Columbia, SC 29223
Tel.: (803) 691-3471
Fax: (803) 691-3474

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **MWRA**

Party Identification Number: **GRP80**

FOR MWRA

12/8/06
Date

Signature: _____
Name (print): Frederick A. Laskey
Title: Executive Director
Address: Charlestown Navy Yard
100 First Avenue, Building 39
Boston, MA. 02129

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Steven A. Remsberg
Title: General Counsel
Address: Charlestown Navy Yard
100 First Avenue, Building 39
Boston, MA. 02129
Ph. Number: 617-788-1145

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **NE Detroit Diesel-Allison, Inc.**

Party Identification Number: **4090**

NEW ENGLAND DETROIT DIESEL-ALLISON, INC.

FOR _____ COMPANY, INC. */

12/12/06
Date

Signature: _____

Name (print) Jeffrey P. Manning

Title: President

Address: 90 Bay State Road

Wakefield, MA 01880

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): _____

Title: _____

Address: _____

Ph. Number: _____

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **New England Electrical Systems**

Party Identification Number: **GRP96** and Party ID 5743 and 5744

~~FOR XXXXXXXXXXXXXXXXXXXX COMPANY, INC. BY~~
Massachusetts Electric Company

12-15-06

Date

Signature: _____

Name (print): _____

JOSEPH M. KWASNIK

Title: _____

VICE PRESIDENT, ENVIRONMENTAL

Address: _____

25 RESEARCH DRIVE

WESTBOROUGH, MA 01582

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Robert F. Fitzpatrick Jr.

Title: Counsel for Massachusetts Electric Company

Address: Wilmer Hale

60 State Street

Boston, MA 02109

Ph. Number: 617-526-6382

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

Name of PRP: **New England Electrical Systems**
Party Identification Number: **GRP96** and Party ID 5742

Date _____

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Robert F. Fitzpatrick Jr.
 Title: Counsel for New England Power Company
 Address: Wilmer Hale
60 State Street
Boston, MA 02109
 Ph. Number: 617-526-6382

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Noyes Citgo Service**

Party Identification Number: **1940**

FOR _____ COMPANY, INC. */

12-11-06

Date

Signature: _____

Name (print) James A. Noyer

Title: Son of deceased - P.O.A.

Address: 34 High Rd
Newbury Ma 01951

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): _____

Title: _____

Address: _____

Ph. Number: _____

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Pelletier Brothers**

Party Identification Number: **3946**

PELLETIER BROS.' GARAGE, A PARTNERSHIP,
AND,
PELLETIER BROS. REALTY TRUST,
AND,
MAURICE D. PELLETIER, INDIVIDUALLY

FOR ~~COMPANY, INC.~~

DECEMBER 12, 2006

Date

Signature: _____

Name (print): MAURICE D. PELLETIER

Title: PARTNER OF PELLETIER BROS.' GARAGE AND

Address: BENEFICIARY OF PELLETIER BROS. REALTY TRUS

C/O 47 COGGER RD

LOWELL MA 01854

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): JOSEPH G.A. PELLETIER

Title: PARTNER, TRUSTEE AND BENEFICIARY

Address: 47 COGGER ROAD

LOWELL MA 01854

Ph. Number: _____

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Pelletier Brothers**

Party Identification Number: **3946**

PELLETIER BROS.' GARAGE, A PARTNERSHIP,
AND,
PELLETIER BROS. REALTY TRUST,
AND,
ROGER E. PELLETIER, INDIVIDUALLY

FOR COMPANY INC. */

DECEMBER 12, 2006

Date

Signature: <

Name (print): ROGER E. PELLETIER

Title: PARTNER OF PELLETIER BROS.' GARAGE AND

Address: BENEFICIARY OF PELLETIER BROS REALTY TRUST
C/O 47 COGGER ROAD
LOWELL MA 01854

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): JOSEPH G.A. PELLETIER

Title: PARTNER, TRUSTEE AND BENEFICIARY

Address: 47 COGGER ROAD
LOWELL MA 01854

Ph. Number: _____

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Pelletier Brothers**

Party Identification Number: **3946**

PELLETIER BROS.' GARAGE, A PARTNERSHIP,
AND,
PELLETIER BROS. REALTY TRUST,
AND,
JOSEPH A.R. PELLETIER, INDIVIDUALLY

FOR ~~COMPANY INC.~~ */

DECEMBER 12, 2006

Date

Signature:

Name (print): JOSEPH A.R. PELLETIER

Title: PARTNER AND BENEFICIARY

Address: 47 COGGER ROAD

LOWELL MA 01854

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): JOSEPH G.A. PELLETIER

Title: PARTNER, TRUSTEE AND BENEFICIARY

Address: 47 COGGER ROAD

LOWELL MA 01854

Ph. Number:

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Pelletier Brothers**

Party Identification Number: **3946**

PELLETIER BROS.' GARAGE, A PARTNERSHIP,
AND,
PELLETIER BROS. REALTY TRUST,
AND,
JOSEPH G.A. PELLETIER, INDIVIDUALLY

FOR ~~COMPANY, INC.~~ */

DECEMBER 12, 2006

Date

Signature: _____

Name (print): JOSEPH G.A. PELLETIER

Title: PARTNER, TRUSTEE AND BENEFICIARY

Address: 47 COGGER ROAD

LOWELL MA 01854

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): JOSEPH G.A. PELLETIER

Title: PARTNER, TRUSTEE AND BENEFICIARY

Address: 47 COGGER ROAD

LOWELL MA 01854

Ph. Number: _____

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Plymouth & Brockton Street Railroad**

Party Identification Number: **GRP298**

Plymouth and Brockton Street Railway Company

FOR _____ COMPANY, INC. */

12/15/06

Date

Signature:

Name (print): George S. Anzuoni

Title: President

Address: 31 Milk Street

Mezzanine Level

Boston, MA 02109

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): George S. Anzuoni

Title: President

Address: 31 Milk Street

Mezzanine Level

Boston, MA 02109

Ph. Number: 617/773-9403 x214

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Plymouth Rock Transportation**

Party Identification Number: **4058**

FOR PLYMOUTH ROCK TRANSPORTATION
COMPANY, INC. */

12/7/06
Date

Signature: _____
Name (print): STEVEN A. CORT
Title: Exec. Vice President
Address: 171 Church St.
Weston, MA 02493

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): _____
Title: _____
Address: _____

Ph. Number: _____

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

Name of PRP: **Pratt & Whitney**
Party Identification Number: **4094**

**/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.*

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Quirk Auto Dealership (Chevrolet)**

Party Identification Number: **4162**

FOR DANIEL J. QUIRK INC., D/B/A QUIRK CHEVROLET */

11/30/06
Date

Signature: _____
Name (print): DANIEL J QUIRK
Title: Pres.
Address: P.O. Box 850972
Braintree, MA 02185-0972

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): H. Glenn Alberich, Esq.
Title: Attorney of Record
Address: Burns & Levinson LLP
125 Summer Street
Boston, MA 02110
Ph. Number: (617) 345-3660

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Quirk Auto Dealership (Ford)**

Party Identification Number: **4163**

FOR D.J. QUIRK FORD, INC. */

11/30/06
Date

Signature: _____
Name (print): DANIEL J QUIRK
Title: Pres.
Address: P.O. Box 850972
Braintree, MA 02185-0972

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): H. Glenn Alberich, Esq.
Title: Attorney of Record
Address: Burns & Levinson LLP
125 Summer Street
Boston, MA 02110
Ph. Number: (617) 345-3660

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **RB Strong Excavation and Sewerage Contractor, Inc.**

Party Identification Number: **4850**

FOR RB Strong Excavating and Sewerage Contractor, Inc. ~~COMPANY, INC.~~ */

13/4/06
Date

Signature: /
Name (print): Ronald B. Strong
Title: President
Address: 122 Western Ave
Gloucester, MA 01930

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Ronald B. Strong
Title: President
Address: 122 Western Ave
Gloucester, MA 01930
Ph. Number: 978-283-0080

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.


THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Reynolds Auto Repair**

Party Identification Number: **4274**

FOR REYNOLDS AUTO REPAIR COMPANY 

12/7/06
Date

Signature: 

Name (print): DAVID REYNOLDS

Title: OWNER

Address: 407 ESSEX ST.
LYNN, MA 01902

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): _____

Title: _____

Address: _____

Ph. Number: _____

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. Exxon Mobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Rick Starr Enterprises, Inc. D/B/A Rick Starr Toyota, Rick Starr Volkswagen BMW, Rick Starr Pontiac Cadillac, Rick Starr Toyota Pontiac and Rick Starr Ford**

Party Identification Number: **4791**

FOR RICK STARR ENTERPRISES, INC. D/B/A
Rick Starr Toyota, Rick Starr Volkswagen
BMW, Rick Starr Pontiac Cadillac, Rick
Starr Toyota Pontiac and Rick Starr Ford

12/11/06

Signature: 

Name (print): Rick Starr

Title: Former President

Address: 5400 S. US Hwy 1

Fort Pierce, FL 34982

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Sherilyn Burnett Young

Title: Attorney

Address: Rath, Young and Pignatelli

One Capital Plaza

P.O. Box 1500

Concord, NH 03302-1500

Ph. Number: (603) 226-2600

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Rietzl Porsche Audi**

Party Identification Number: **4261**

FOR **RIETZL CORPORATION***/

12.13.2006

Date

Signature: _____

Name (print): Lisa Orcutt

Title: Authorized representative for settlement

Address: 59 Pond Street
Norwell, MA 02061

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): H. Glenn Alberich, Esq.

Title: Attorney of Record

Address: Burns & Levinson LLP

125 Summer Street

Boston, MA 02110

Ph. Number: (617) 345-3660

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Ruland Manufacturing, Co.**

Party Identification Number: **4423**

FOR Ruland Manu- COMPANY, INC. */
facturing

12/13/06
Date

Signature: _____
Name (print): Robert Ruland
Title: President
Address: 6 Hayes Memorial Drive
Marlborough, MA 01752

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Dianne R. Phillips
Title: Holland & Knight LLP
Address: 10 St. James Avenue
Boston, MA 02116

Ph. Number: (617) 523-2700

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Signature Flight Support** Corporation

Party Identification Number: **3855**

FOR ~~COMPANY, INC.~~ */
SIGNATURE FLIGHT SUPPORT CORPORATION

12/12/06

Date

Signature: _____

Name (print): Joseph I. Goldstein

Title: Counsel - Aviation Services (Americas)

Address: 201 South Orange Avenue

Suite 1100S

Orlando, Florida 32801

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Robert F. Fitzpatrick Jr.

Title: Counsel for Signature Flight Support

Address: Corp.

60 State Street

Boston, MA 02109

Ph. Number: 617-526-6382

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Silva's Garage**

Party Identification Number: **4618**

FOR Silva's Garage
COMPANY, INC. */

11/29/06
Date

Signature: [Signature]
Name (print): James V. Silva
Title: Owner/Principal
Address: 164 Middlesex St.
No. Chelmsford, MA 01863

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): _____
Title: _____
Address: _____

Ph. Number: _____

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Smith Motor Sales of Haverhill, Inc.** JLS

Party Identification Number: **4644**

FOR _____ COMPANY, INC. */

12-14-06

Date

Signature: _____

Name (print): John Smith

Title: President

Address: 420 River Street
Haverhill MA 01832

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): _____

Title: _____

Address: _____

Ph. Number: _____

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Sudbay Pontiac**

Party Identification Number: **4860**

FOR Sudbay Pontiac, Cadillac, Buick
COMPANY, INC. */

12-13-06

Date

Signature: _____

Name (print): DONALD E. SUDBAY, JR.

Title: PRESIDENT

Address: 88 Causeway St.
Gloucester, MA 01930

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): DONALD E. Sudbay, Jr

Title: PRESIDENT

Address: 88 Causeway St
Gloucester, MA 01930

Ph. Number: 1-978-283-4730

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Towers Front End Service**

Party Identification Number: **5034**

Towers Front End + Service
FOR _____ COMPANY, INC. */

12-13-06

Date

Signature: 1

Name (print): Donald S. Tower

Title: Owner

Address: 678 Somerset Ave

Taunton, MA 02780

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): _____

Title: _____

Address: _____

Ph. Number: _____

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Town of Andover**

Party Identification Number: **GRP303**

FOR Town of Andover ~~COMPANY, INC.~~

6/5/06
Date

Signature: [Signature]
Name (print): Reginald Stapczycki
Title: Town Manager
Address: 36 Bartlet Street
Andover, MA 01810

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Thomas G. Fiore
Title: Counsel
Address: Urbelis & Fieldsteel, LLP
155 Federal Street
Boston, MA 02110
Ph. Number: (617) 338-2200

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Town of Ipswich**

Party Identification Number: **GRP345**

TOWN OF
FOR IPSWICH COMPANY, INC. */

12-13-06

Date

Signature

Name (print): ROBERT T. MARKEL

Title: TOWN MANAGER

Address: 25 GREEN ST.
IPSWICH, MA 01938

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): JUDITH A SULLIVAN

Title: ADMINISTRATIVE ASSISTANT

Address: TOWN HALL

25 GREEN STREET

IPSWICH, MA 01938

Ph. Number: 978-356-6604

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Town of Marshfield**

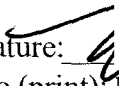
Party Identification Number: **GRP367**

TOWN OF MARSHFIELD

~~FOR~~ //////////COMPANY, INC!//

12/11/06

Date

Signature: 

Name (print): MICHAEL A. MARESCO

Title: Chairman, Board of Selectmen

Address: Town Hall

870 Moraine Street

Marshfield, MA 02050

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): JOHN J. CLIFFORD

Title: Town Administrator

Address: Town Hall

870 Moraine Street

Marshfield, MA 02050

Ph. Number: 781 834-5563

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Vachon Mazda-Mitsubishi**

Party Identification Number: **5177**

FOR VACHON MOTOR SALES, INC. D/B/A VACHON MAZDA

VACHON IMPORTS, INC. D/B/A VACHON MITSUBISHI

DENNIS VACHON */

12/4/06
Date

Signature: _____
Name (print): DENIS E. VACHON
Title: PRESIDENT
Address: 1000 Washington Street
South Attleboro, MA 02703

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): H. Glenn Alberich, Esq.
Title: Attorney of Record
Address: Burns & Levinson LLP
125 Summer Street
Boston, MA 02110
Ph. Number: (617) 345-3660

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Village Automotive Group**

Party Identification Number: **5228**

Dec 11, 2006
Date

Gene Brown Motors, Inc
FOR _____ COMPANY, INC. */

dan Volvo Village

Signature

Name (print): Raymond J Ciccolo

Title: President

Address: 75 No Beacon St
Boston Ma 02134

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): H. Glenn Alberich, Esq.

Title: Attorney of Record

Address: Burns & Levinson, LLP
125 Summer St
Boston Ma 02110

Ph. Number: 617-345-3000

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **WNA Comet East**

Party Identification Number: **2008**

FOR _____ COMPANY, INC. */

11-30-06
Date

Signature: _____
Name (print): DAVID GORDON
Title: COO
Address: 6 STUART RD.
CHELMSFORD, MA 01824

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): _____
Title: _____
Address: _____

Ph. Number: _____

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Yeo Chevrolet, Inc.**

Party Identification Number: **5484**

FOR Yeo Chevrolet COMPANY, INC. */
Yeo Chevrolet, Inc.

12-5-06

Date

Signature: _____

Name (print): William E. Yeo

Title: President

Address: P.O. Box 607

Amesbury, MA 01913

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Sherilyn Burnett Young, Atty.

Title: Attorney for Yeo Chevrolet, Inc.

Address: One Capital Plaza

P.O. Box 1500

Concord, NH 03302-1500

Ph. Number: (603) 226-2600

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Henry's Auto Parts, Inc.**

Party Identification Number: 2557

FOR Henry's Auto Parts Inc.
COMPANY, INC. */

Date 12/15/2006

Signature: _____

Name (print): Henry A. Valeri

Title: _____

Address: _____

694 Rathbun St
Blackstone, MA 01504

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): _____

Title: _____

Address: _____

Ph. Number: _____

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **James M. Scanzani (d/b/a/ Criterion Systems)**

Party Identification Number: **2123**

FOR Criterion COMPANY, INC. */

12-11-06
Date

Signature: [Signature]
Name (print): James M Scanzani
Title: Owner
Address: 89 Newark ST
Haverhill Ma 01832

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): _____
Title: _____
Address: _____

Ph. Number: _____

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **John E. Power (d/b/a/ Power's Auto Service)**

Party Identification Number: **4092**

FOR _____ COMPANY, INC. */

December 1, 2006

Date

Signature: _____

Name (print): JOHN E. POWER

Title: Owner

Address: Power's Auto Service

707 Central Street

East Bridgewater, MA 02333

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): _____

Title: _____

Address: _____

Ph. Number: _____

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Emile Lavasseur (d/b/a/ Larry's Service)**

Party Identification Number: **3082**

FOR _____ COMPANY, INC. */

12/10/06
Date

Signature: _____
Name (print): Emile Lavasseur
Title: Partner
Address: 665 Haworth St
Laurence, MA 01841

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): _____
Title: _____
Address: _____

Ph. Number: _____

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Mel's Auto Services, Inc.**

Party Identification Number: **3378**

FOR MEL'S AUTO COMPANY, INC. */

12/12/06
Date

Signature: _____

Name (print): BRUCE W. WILKINS

Title: President

Address: 7 Roundwood Rd
NATICK, MA 01760

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): _____

Title: _____

Address: _____

Ph. Number: _____

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Micromatic Products**

Party Identification Number: **3432**

FOR Micromatic Products COMPANY, INC. */

12-4-06

Date

Signature

Name (print): MICHAEL P. CONTOS

Title: PRES.

Address: C/O MICHAEL FEINMAN, ESQ
23 MAIN ST.
ANDOVER, MA 01810

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): MICHAEL P. CONTOS

Title: PRES.

Address: 7 STONEBRIDGE RD
GROVELAND, MA 01834

Ph. Number: 973-373-1234

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **S & H Petroleum Corp.**

Party Identification Number: **4446**

FOR S & H Petroleum Corp. COMPANY, INC. */

12/7/06
Date

Signature: [Signature]
Name (print): NICHOLAS SHAREN
Title: _____
Address: 7 HARTLAW ST
WEST ROX, MA 02132

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): _____
Title: _____
Address: _____

Ph. Number: 617-803-3535 or
617-327-9008

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

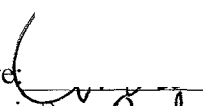
Name of PRP: **Truck Service, Inc.**

Party Identification Number: **5093**

FOR Truck Service ~~COMPANY~~, INC. */

12-4-06

Date

Signature: 

Name (print): Andrew W. WARD

Title: President

Address: 55 STATE ST.

LAURENCE, MA

01843

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): _____

Title: _____

Address: _____

Ph. Number: _____

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. ExxonMobil Corporation, et. al., relating to the Beede Waste Oil Superfund Site.

Name of PRP: **Melvin F. Horn (d/b/a Wayside Service Center)**

Party Identification Number: **Melvin F. Horn**

FOR Wayside Service Center COMPANY, INC. */

12-4-06
Date

Signature: _____
Name (print): MELVIN F. HORN
Title: Owner
Address: 165 TURNPIKE ROAD #53
WESTBORO MA 01581

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): MELVIN F HORN
Title: Owner
Address: 165 TURNPIKE ROAD #53
WESTBORO MA 01581

Ph. Number: 508 366-2867

*/ A separate signature page must be signed by each corporation, individual or other legal entity that is settling with the United States.